complaint

Mr W complains that Bank of Ireland (UK) Plc won't refund money he says was taken out of his account. He says he didn't withdraw or spend the money or ask anybody else to do so for him.

The BoI account is branded as one from the Post Office.

background

The details of what's said to have happened are well-known to Mr W (and to BoI). So I only summarise them here.

Mr W says he was in hospital when his BoI account was used to make some large value gambling transactions. He thought his carer must have carried them out.

BoI wouldn't refund the money. It said Mr W's genuine card and PIN had been used – and each lot of spending had been subject to extra security at the time.

Mr W was upset by BoI's response. He couldn't understand how it had allowed such a large amount of money to be spent without contacting him. So he contacted us.

One of our adjudicators looked into Mr W's complaint. But he didn't think it'd be fair to make BoI refund the money. There didn't seem to be any benefit to somebody else (Mr W's carer) spending the money on gambling. Any winnings went back into Mr W's BoI account.

The adjudicator also considered Mr W's comments that he'd not set up the gambling account used on this occasion. But it'd been active for some years – so that didn't fit with somebody taking advantage of Mr W suddenly being in hospital.

Last, the adjudicator noted Mr W's concerns about BoI not contacting him about the transactions at the time. But as these were made using Mr W's genuine card, PIN and had been subject to extra security each time, he couldn't see any reason why the bank would think there was anything wrong.

Mr W didn't agree with the adjudicator's view so his complaint's been passed to an ombudsman to review and issue a final decision on. In summary, he maintains the gambling account wasn't his, he didn't spend the money and the bank should have spotted what was going on.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I can see Mr W feels very strongly about what's happened here. That's clear from what he's said to us. And that's not surprising. There's a large amount of money involved. So he's bound to be concerned.

I'm also aware of Mr W's personal situation. It's clearly not been an easy time for him. So losing a large amount of money will have only made matters worse for him. I'm sorry that's the case and I hope Mr W gets the help he needs.

But I'm afraid I have to tell Mr W that I think the adjudicator's reached the right outcome here. BoI doesn't have to refund the money taken out of his account. There's actually very little I can usefully add to what the adjudicator's already told Mr W. I think he set out the position quite clearly.

Although I've not seen any evidence that Mr W was in hospital at the time, I've no reason to disbelieve what he says. But there's no dispute the person making the transactions had Mr W's genuine card and PIN. And they had access to the online information required. So I agree with the adjudicator that BoI wouldn't have any reason to think anything was wrong when the spending happened.

While I accept Mr W says he didn't set up the gambling account, I think it's most likely that he did. I don't think it's likely his carer would set up an account and wait some years before trying to use it fraudulently.

And any winnings from the gambling were to be paid back into Mr W's BoI account. If a fraudster had access to Mr W's genuine card, PIN and online information, I'd expect them to make use of them in a different way. They wouldn't gamble and possibly lose money that they could access straight away.

When I combine all the above, I think it's most likely that Mr W spent the money himself. If he didn't then I think he gave his permission to somebody else to do so for him. I realise these are difficult messages to give Mr W. But it's what the evidence points me towards.

Given how strongly Mr W feels about what he says has happened, he may want to take the matter further through other routes. But my decision brings to an end what we – in trying to resolve his dispute with BoI informally – can do for him. I'm sorry to disappoint Mr W and very much hope he gets the help he needs.

my final decision

For the reasons I've given, my final decision is that Bank of Ireland (UK) Plc doesn't have to refund the money Mr W says was taken out of his account while he says he was in hospital and used for gambling.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 May 2016.

Andrew Davies
ombudsman