

complaint

Mrs W complains that Bank of Scotland plc, trading as Halifax, won't refund a number of transactions on her account that she says she doesn't recognise.

background

In July 2015 Mrs W told Halifax, that although she still had her debit card, there were a number of transactions debited from her account which she didn't recognise. She says the bank told her it would cancel her card to protect her from further risk but that didn't happen. She doesn't think she should be held liable for the transactions, totalling £6,045 that occurred after that time. Since she brought the complaint to this service, Halifax has refunded £3,545 but has refused to refund the other transactions. It has paid £25 for the length of time it took to deal with the complaint.

The adjudicator didn't think Halifax had made a mistake. It had properly queried the disputed transactions with the merchants but, all except one, had successfully defended the claims and shown that the transactions were genuine. It had already refunded the other claim in full.

Mrs W responded to say, in summary, that if her card had been cancelled when she first raised the issue then the further transactions couldn't have taken place.

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 Mrs W feels very strongly about this. There's a large amount of money involved. Mrs W has described the impact of the loss on her and I accept she finds this difficult to cope with. But I know Mrs W will be very disappointed, but I have based my decision on the evidence and I don't think Halifax has made a mistake in not agreeing to make any further refunds.

disputed transactions

Mrs W initially told Halifax that she didn't recognise three debit transactions on her account totalling £300 that were taken at the end of June and beginning of July 2015. Halifax refunded these amounts to her and raised a claim against the merchant concerned. Mrs W says that Halifax said it would cancel the card. Towards the end of July she told Halifax that there were further transactions to the same merchant that she didn't make. These were also refunded. Mrs W says that this time she asked Halifax to cancel her card.

The merchant successfully defended the claim and was able to show that the transactions were genuine. I find that Halifax was entitled to re-debit the account with the amounts involved. Mrs W is clear that she didn't make the payments and hadn't used this merchant, but I see that she did pay the same merchant some six weeks earlier and she didn't dispute this.

Mrs W also disputed a large number of transactions made to two other merchants. These were payable to online gaming companies. Halifax decided not to immediately refund Mrs W's account with the money because it thought the chargeback claim had little prospect of success. Indeed, one company (using a different name) was the same as one that Mrs W

regularly used and hadn't disputed. But Halifax said it would challenge this if Mrs W provided it with more details. The other retailer didn't respond to the claim and so Halifax has now refunded the full £3,545 that was paid to it.

I appreciate that Mrs W says that she hasn't used these companies but I think it's unlikely a fraudster, with access to Mrs W's card details, would use these to gamble from her account with a gambling website. There isn't any way for a fraudster to benefit from these transactions – as the money would always return to Mrs W. If a fraudster had her card details it's far more likely they'd try to find a way to withdraw, and benefit from, the money.

I'm satisfied that Halifax has correctly followed the Visa chargeback process in dealing with Mrs W's claims and it hasn't made any mistake by not refunding the money.

cancellation of card

Mrs W has said that Halifax should have cancelled the card when she first disputed the transactions with it at the beginning of July 2015. But I don't agree. Mrs W still had her card and she didn't report it as lost or stolen. I consider she simply told Halifax that she didn't recognise the transactions. A bank wouldn't cancel a customer's card just because they disputed a transaction on their account.

Because there were further disputed transactions on her account, Mrs W says she asked Halifax to cancel the card at the end of July. But I haven't seen any evidence to support this. Having carefully reviewed everything that Mrs W and Halifax have said and provided, I see she used her card for both online and high street transactions for some time after she said she had cancelled it. If Mrs W thought the card had been stopped, I would have expected her to raise this with Halifax rather sooner than she has, rather than simply continue to use the card.

reversal of refunds

Mrs W has suggested that she wasn't told that the amounts she had been refunded could be taken from her account again. But once the card payments had been successfully defended, I'm satisfied that Halifax did write to Mrs W to tell her that it would be re-debiting her account with the amounts involved. It wrote on 14 August and £300 was removed on 26 August. It sent a further letter on 17 August to tell Mrs W it would be re-debiting the second tranche of money. But because Mrs W had said she hadn't carried out the transactions, the bank's fraud team also investigated. Like Visa it also found the payments were genuine, so the account was debited in October.

I find that Mrs W had gone through a similar process in 2014 when she disputed transactions on her account. I'm satisfied that she was told at that time that a merchant had 45 days to prove it was entitled to the funds and, if it did so, then the money would be taken back out of her account. So I think Mrs W knew, or ought reasonably to have known, that Halifax could reverse the refunds.

financial difficulties

Given the amount of money involved and what Mrs W has told us about the situation she now faces I understand she may face difficulties managing her finances. I've asked the adjudicator to send some information about some non-profit organisations that might be able to help her.

I would also remind Halifax (and through them any debt collection agent) that it should respond positively and sympathetically to Mrs W if she's in that position. That doesn't mean Mrs W shouldn't be asked to repay the debt. Halifax (or its agents) should work with Mrs W to agree a sustainable way to repay the money owed. And I would urge Mrs W to contact Halifax to do this.

my final decision

For the reasons I have given, my final decision is that Bank of Scotland plc doesn't have to refund the payments that Mrs W says she didn't make or authorise.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 12 September 2016.

Karen Wharton
ombudsman