

complaint

Miss D complains that NewDay Ltd won't reimburse money taken from her credit card account. She says the payments were made without her knowledge or agreement.

background

At the end of June 2016, Miss D contacted NewDay to report that her credit card had been used to make a series of cash machine withdrawals. She said she didn't make or authorise any of the payments. Most of the withdrawals took place in the days before Miss D contacted the bank, apart from two that were made in April.

Miss D asked NewDay to refund the money. But the bank's unwilling to do so. It says the money was withdrawn using the genuine card and correct personal identification number (PIN), which Miss D said had been in her possession throughout.

Our adjudicator felt the available evidence didn't readily suggest the card was copied or used by an unknown third party. Overall, she didn't think NewDay's position was unreasonable.

Miss D didn't accept the adjudicator's findings. She maintained she was elsewhere when the card was used. The adjudicator wasn't persuaded this changed things. So the matter's been passed to me for review.

my findings

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

As the adjudicator observed, that evidence indicates the genuine card was used to make the payments. Miss D says she had the card with her during the material time, and that there was no-one else who could've had access to it.

I've thought about whether Miss D might be mistaken about that, as it seems to me the only possible explanation as to how the genuine card might've been used by someone other than Miss D. It would require that, unknown to Miss D, someone would've got hold of her card, used it a couple of times, then replaced it, before taking the same action a couple of months later. That may be unlikely, though there are circumstances in which it might be possible. But based on Miss D's evidence, there's no-one who'd have been in a position to do that. So I can't properly conclude that's what happened.

Miss D also told NewDay she didn't keep a record of the PIN. Again, there seems limited opportunity for anyone having accessed (or copied) her card to have seen her entering her PIN. The only use Miss D made of the card in the period immediately before the first disputed payments in April was in another part of the country. And it seems quite unlikely that someone who'd been able to obtain Miss D's PIN from that genuine use wouldn't simply have used the card there, rather than travelling almost 200 miles to her home town to do so.

Miss D says she didn't make the payments herself, being at work elsewhere at the material time. That may be the case, though I note that some of the withdrawals were made in the very early hours of the morning, and others at the weekend. But in any event, it doesn't

mean NewDay isn't able to hold her liable for them. For example, NewDay could be entitled to hold Miss D liable for use by someone who had the card with her permission.

I'm satisfied NewDay considered relevant evidence and made suitable enquiries before setting out its position. And I can see why NewDay reached the conclusion it did. After careful consideration, I'm not persuaded it would be appropriate for me to require it to reimburse Miss D.

my final decision

Taking all of this into account, my decision is that I'm afraid I can't uphold Miss D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 3 January 2017.

Niall F Taylor
ombudsman