

complaint

Mrs P complains that PayPal Sarl & Cie, SCA will not refund disputed transactions on her account.

background

Mrs P says that a substantial number of transactions were made on her PayPal account, to fund her online gambling account. She says she did not make those transactions and believes she cannot reasonably be held liable for them. She asked PayPal to refund them.

PayPal said that there was no evidence of unauthorised access to her account and so was unwilling to refund the transactions. As things were not settled, Mrs P brought her complaint to this service where one of our adjudicators investigated it.

From the evidence, the adjudicator did not consider that PayPal was liable to refund the disputed transactions. Mrs P did not agree and said, in summary:

- She has no idea what could have happened, unless her account had been hacked.
- She would not have had the time to spend playing these online betting games.
- She never gave her passwords to anyone. If her daughter knew her password (which is very unlikely) she would only have given it out under duress.
- This incident has damaged and distressed her and her family. There should be greater safeguards to protect consumers from loss of this type.

my findings

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

The disputed transactions were made during a period of just over a day, starting at about a quarter to eleven on a Saturday morning. They were made following Mrs P's PayPal being linked to her online account with a gambling company, which she had just re-activated.

Mrs P has told us that she had linked two card accounts to her online gambling account, but not her PayPal account. She says that the most likely explanation for what happened is that her daughter's friend, who was staying over that weekend, must have got hold of her phone without her noticing, linked the PayPal account and then made all the disputed transactions.

Mrs P says she is certain that she had never disclosed the passwords or PINs for her phone, gambling account or PayPal account to anyone (including any member of her family) and had not written them down anywhere.

Mrs P considers it likely that the friend (a child) did not appreciate that she was playing using real money on the gambling site. It seems that Mrs P's daughter has continued to maintain that she did not allow the friend access to Mrs P's phone. We do not have any information from the friend, whom Mrs P says was also bullying her daughter.

I've considered the possibility of the friend having carried out these transactions, as Mrs P suggests. But the technical evidence about what happened in the run up to the transactions does not seem to support Mrs P's case, particularly when the relevant timings are taken into account.

Mrs P agrees that she had just reactivated her gambling account – she'd tried to fund it by making a transaction from one of her card accounts, but it did not go through because she had not used the site for a long time. So she called the gambling site to get the gambling account up and running again.

Mrs P agrees that she then made a deposit of £1,000 to her gambling account, using a linked card account. The technical evidence shows that Mrs P's PayPal account had been linked to her gambling account just one minute before she made that £1,000 transaction.

There were no false starts on the PayPal login, and no request for a password re-set. So whoever did that must have already been in possession of both Mrs P's gambling account security details and her PayPal security details.

Given that, it seems improbable that the linking of the PayPal account was done by a third party without Mrs P's knowledge or agreement. I can also see that Mrs P had used her PayPal account to fund undisputed transactions to other gambling sites, both before and after the disputed transactions. I have seen no evidence to lead me to suspect that anyone had hacked into Mrs P's PayPal account (by which I mean get into it without having to input her security details).

Mrs P spoke to the gambling site at 19.17 that evening – it had contacted her to check that she had made the significant deposits into the account that day. I have listened to a recording of that call, and I am satisfied that the gambling site representative clearly stated the total of the deposits made that day and that Mrs P clearly said they were hers.

I appreciate that Mrs P says she mistakenly thought the figure given to her by the gambling site was one tenth of the actual amount, and that is why she said the transactions were genuine. But that is not borne out by the call. The total is stated three times during the call, and I do not consider that Mrs P could reasonably have mistaken the amount in question.

In addition to telling her the amount of the transactions, the gambling site told Mrs P what her remaining balance was and checked with her whether she was comfortable with losing that total. It asked whether she wanted to create any voluntary limits on her gambling activity. Mrs P's responses to those enquiries are clear – she says she is comfortable with the amount spent and did not want to create any limits on her activity.

The activity on Mrs P's gambling account continued until lunchtime the following day. She then had a further phone conversation with the gambling site, during which she reported the transactions as unauthorised.

By then, a total of £8,500 worth of winnings had been credited back to Mrs P's account from the disputed transactions, and those winnings had also been gambled. No further attempt was made to deposit funds from the PayPal account, following Mrs P's second phone conversation with the gambling site.

I have very carefully examined the overall evidence. There is no plausible explanation of how a third party could have gained Mrs P's PayPal security details, even if they were lucky enough to have somehow obtained the PIN for her phone and also managed to get access to Mrs P's gambling account. In my view, the timing and pattern of the disputed transactions also do not point to unauthorised activity by a third party.

I realise that this has been a very difficult time indeed for Mrs P. During our investigation, she has provided information about underlying matters which must have been very distressing for her to talk about.

That information has been seen by only the adjudicator and me, and we have treated it with appropriate sensitivity and care. I don't doubt how much the loss of this money has affected Mrs P and I have considerable sympathy for her situation.

Taking all the evidence into account, however, I find on a balance of probabilities that the disputed transactions were not unauthorised. It follows that I cannot reasonably direct PayPal to refund them.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 3 April 2017.

Jane Hingston
ombudsman