

summary of complaint

Mr K complains that his account has been the subject of fraudulent activity, but that The Royal Bank of Scotland plc (RBS) has refused to reimburse his losses.

background

The following activity is relevant to this complaint:-

- Mr K held a credit card account with RBS. Mr K last made a payment into his account on 14 February.
- On 26 February a series of fraudulent deposits were made into the account totalling over £23,000.
- On 27 February two disputed transactions occurred totalling over £23,000. Both transactions were chip and personal identification number (PIN) verified and took place at two retailers in the very early hours of the morning.
- On 28 February Mr K reported his credit card as stolen to RBS.

Mr K has admitted to keeping his credit card in his wallet, along with his other debit and credit cards. Mr K has explained he kept a written record of the PINs for all his cards on a slip of paper in his wallet. Mr K is still in possession of his wallet, the slip of paper and all the other cards.

This complaint was considered by one of our adjudicators, who indicated that he was not minded to uphold it. Mr K did not accept this recommendation and asked that the case be reviewed by an ombudsman.

my findings

I have considered all the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances of this complaint. All the evidence has been considered on the balance of probabilities – in other words, what I consider is more likely than not to have happened in light of the available evidence.

The disputed transactions were carried out on Mr K's credit card account. The effect of section 83 of the Consumer Credit Act 1974 is that RBS can only hold Mr K liable for the disputed transactions if he made or authorised them, or if they were made by someone who had the card with his consent.

Mr K has informed us he kept a record of the PIN to each of his cards written down on a slip of paper in his wallet (and also recorded on his mobile phone). In light of this information, I do consider it strange that an unauthorised third party would only attempt to use one particular card to conduct the disputed transactions on, when they are likely to have gained access to several different accounts. At no point has Mr K suggested that his wallet or mobile phone were misplaced.

Mr K usually kept his wallet at home. At work he left his wallet in his desk drawer, and on occasion, left it there overnight by accident. Mr K has not explained of any recent incident in which he accidentally left his wallet at work. As such I am not persuaded this is how access to his card and PIN was gained.

I have considered the fact that Mr K has given contradictory information in respect of this matter. Whilst I accept this could have been due to confusion, I still consider the discrepancies in the information provided as concerning.

I appreciate Mr K is unhappy with the fact that RBS did not detect the disputed transactions sooner. Given the short timeframe between the money being deposited into the account and the two disputed transactions taking place, I believe it is not unreasonable that the transactions were concluded before RBS had the opportunity to place a block on the card.

On balance of all the evidence I am simply not persuaded by the version of events put forward by Mr K. I believe the more likely explanation is Mr K either authorised the transactions himself or authorised a third party to carry them out on his behalf. It follows that RBS is entitled to hold Mr K liable.

my final decision

My final decision is that I do not uphold Mr K's complaint against The Royal Bank of Scotland plc.

Robyn McNamee
ombudsman