

complaint

Mr S complains that Lloyds Bank plc will not refund disputed transactions on his account and gave him notice to close his account.

background

Mr S says that a fraudster made a number of unauthorised transactions from his account at cash machines and in the branch. He says that he was out of the country when most of the transactions were made, and can produce his stamped passport to prove that.

Mr S says that someone called Lloyds pretending to be him and ordered a new card and personal identification number ("PIN") for his account, which they must then have intercepted and used without his knowledge.

He says Lloyds is liable to refund the money to his account unless it can prove it was he who made the transactions. He also says that Lloyds' subsequent decision to give him notice to close his account has inconvenienced him.

Lloyds said that it was not liable to refund the money, and that Mr S had not been able satisfactorily to explain high-value deposits that had been made into his account before the disputed transactions. It said it had given notice in accordance with the terms of the account, but paid Mr S £50 in acknowledgement of some poor service in its handling of his complaint.

As things were not settled, Mr S brought his complaint to this service where an adjudicator investigated it. From the evidence, the adjudicator did not think it likely that the card and PIN used to make the disputed transactions had been ordered and intercepted by a fraudster. Overall, the adjudicator considered that Lloyds was entitled to hold Mr S liable for the disputed transactions.

Mr S did not agree and said, in summary:

- He has liaised with his legal team, and it's clear that the ombudsman service is looking into the wrong things. What is important is the evidence he has provided that he could not have made these transactions because he was abroad.
- The CCTV footage is also important, and will prove his case.
- He believes someone could have ordered a new card and PIN just by giving his name, date of birth and address. One of his relatives has said he did that on his own account. It's not impossible for fraudsters to get hold of that sort of information these days.
- A fraudster who had ordered the new card and PIN would probably also know how long these would take to reach his address. So they could then have arranged to intercept them – either at the bank, in the postal sorting office or perhaps by waiting for the postman and taking them before they were put through his door.
- He has shown he was out of the country at the time, and so Lloyds is lying if it says the CCTV shows him making any of the withdrawals.

my findings

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

There were 23 disputed transactions, made with the card at cash machines and over the branch counter, over a period of eleven days.

The disputed transactions were, for the most part, made from money sitting in Mr S's account. In the couple of months leading up to the disputed transactions, the account appears to have accrued an unusually high credit balance – with over £14,000 in there when the disputed transactions started.

Mr S has told us that this is because people were paying him back money that they owed him and also that someone sold a car on his behalf. But Mr S is a student, and – looking at the level of activity on the account before that – I find it difficult to reconcile his explanation of how he came to have so much money in his account.

Mr S has provided information about his home circumstances, and said that he is certain nobody in his home took his post. The card and the PIN were both sent out to Mr S's usual address – though from different administrative centres, and on different days.

So, if a fraudster had come by Mr S's name, date of birth and address and had then been able to use this information to get past the normal Lloyds security questions, they would still have had to intercept both the card and the PIN when they were sent – separately – to Mr S's home address.

I've considered the scenarios that Mr S has put forward about how this might have happened, but I find them implausible. I am not satisfied that an unauthorised third party obtained the card and PIN.

Mr S has, throughout, placed considerable importance on the boarding passes he has produced to prove that he travelled abroad for five days during the period the disputed transactions were made. He is also adamant that CCTV footage will show that it was not he who made the transactions – which he takes to mean he cannot be held liable.

But Mr S did not have to make the transactions in person in order to be liable for them under the relevant rules. He is also liable if he authorised them in another way. So CCTV footage, or the boarding passes that he has drawn our attention to on a number of occasions, do not amount to conclusive evidence that he is not liable for these transactions.

Taking everything into account, I find on a balance of probabilities that Mr S authorised the disputed transactions. It follows that Lloyds is entitled to hold him liable for them. Lloyds gave Mr S 60 days' notice of closure of his account. This appears to be in keeping with what is required of it by the terms of the account.

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 Mr S to accept or reject my decision before 9 May 2016.

Jane Hingston
ombudsman