

## **complaint**

Mr R complains that Barclays Bank UK PLC won't refund all of the disputed withdrawals made from his account and has closed his account.

## **background**

Mr R opened an account with Barclays at the end of January 2018 and a few days later paid in over £3,000 in cash. He says that he didn't receive the debit card or personal identification number (PIN) that Barclays sent to him. Over a period of a week all the money was taken from his account by a series of withdrawals in branch and using cash machines (ATMs).

Barclays investigated and refunded the ATM withdrawals totalling over £2,000 but decided not to refund the remaining disputed transactions. It asked Mr R to provide it with proof of funds for the initial cash deposit, but he hasn't done this. It then gave Mr R notice of its intention to close the account.

Our investigator didn't recommend the complaint should be upheld. In summary, she felt unable to conclude that the withdrawals had been made fraudulently and was persuaded they were most likely made and authorised by Mr R.

Mr R didn't agree. He said, in summary, that he's never given his card, PIN, passport or date of birth to anyone. He also thought that Barclays should provide CCTV as this would show he didn't make the withdrawals himself.

## **my findings**

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

Having done so, my review of the evidence has led me to the same overall conclusions as our investigator previously set out and for much the same reasons.

### *relevant considerations*

The disputed transactions were all made in February and March 2018. The regulations relevant to these are the Payment Service Regulations 2017. In short, the regulations say that Barclays can hold Mr R liable for the disputed items if the evidence suggests that he most likely made or authorised them himself. So my primary concern is to come to a view about whether or not I think Mr R authorised these payments.

### *first debit card \*3012*

I'm satisfied from the evidence Barclays has provided that whoever made the transactions had both the genuine card and PIN. I say this because Barclays has shown that the transactions were made and authenticated at ATMs where the genuine unique chip in the card was read and the correct PIN was entered.

So I've gone on to consider the alternative possible explanations for how these disputed transactions were made using the genuine card and PIN. These are:

- Mr R received the card and PIN and used them himself

- Someone, with Mr R's authority, used his card and PIN
- Someone was able to intercept or take Mr R's card and PIN and use them, without his consent

Mr R has said that he didn't make the ATM withdrawals with the card himself. He told Barclays that he didn't receive the card and believed it had been intercepted and used without his consent. Barclays has already refunded all these, amounting to £2,210. But it's declined to refund £1,330 which was withdrawn in three amounts at a Barclays Bank Assisted Service Device (ASD), and one amount of £500 in person from over the counter.

Mr R has said that his post is usually delivered to his address, a flat, which isn't accessible from the road. Generally, post is put through the letterbox in his flat's door, although occasionally it may be left at the bottom of the block. He has said that he lives with other members of his family, but they wouldn't open his post.

I've carefully reviewed these ASD and counter withdrawals. The first ASD withdrawal was for £550. I'm satisfied that the genuine card was used for this. In order to take this amount, not only is the card and PIN required, but Barclays requires its customers to complete an extra security measure. Even if Mr R's post had been left at the bottom of the block of flats on one occasion, such that the card and PIN could have been intercepted by an unknown third party, as he suggests, I find there's no convincing explanation how this person would have known Mr R's additional personal information to pass this extra layer of security. So I don't think an unknown person did intercept Mr R's card.

Mr R didn't report the card lost or stolen until two weeks after he'd opened the account. He was told that the card and PIN would take three to five days to arrive. As he'd already paid a large sum of money into his account six days after opening it, if he hadn't received the card by then I think he might have asked Barclays about it at that time.

Barclays has said that it refunded the ATM withdrawals before it carried out a thorough investigation into what had happened. I also think it was too quick to make the refunds. I'm not persuaded that an unknown third party used Mr R's card, so I think the withdrawals were either made by Mr R himself or by someone with his authority.

#### *second debit card \*3018*

After Mr R reported the first card, ending \*3012, as lost or stolen it was cancelled and another card (ending \*1011) was issued. Mr R says that he didn't receive this card either and it was cancelled eight days later. This card wasn't used at all. Then Barclays issued a third card (ending \*3018), which was the second debit card to be used on Mr R's account.

Mr R agrees that he received this card, but he then lost it on a night out. But a new and different PIN was issued for this card. So if the card had been found or taken from Mr R when he was out, it's difficult to see how the person who took it also knew the correct PIN.

Mr R suggests that the third party might have shoulder-surfed him and then taken the card. So I've looked at when the card was first used and have found that Mr R made a balance enquiry at around 4.30pm. The card was next used some five and a half hours later when just £10 was withdrawn. Mr R says he lost the card on a night out before this cash withdrawal was made, because he didn't make any cash withdrawals using the card. I consider it unlikely that someone observed Mr R entering his PIN that afternoon and then

followed him around for several hours on the off-chance that there might be an opportunity to take the card later, or that Mr R might lose it.

Mr R didn't report the card as lost or stolen until some nine days later. But I'd have expected him to tell Barclays about this as soon as he noticed the card was missing. I'm satisfied that Mr R was in regular contact with Barclays during that nine day period, so had every opportunity to do so.

Even though Mr R told us that he didn't make any of the withdrawals from his account during those nine days, I'm satisfied that his genuine card was used in a Barclays' branch and the correct PIN entered. The person that did this also produced Mr R's passport and a Barclays' letter. This was three days after Mr R said he'd lost the card. I'm not persuaded that an unknown third party would have been in possession of the letter from Barclays about the refund, or Mr R's passport, so I think Mr R was in possession of his card at that time.

I know Mr R will be disappointed but, after taking account of all the evidence, I find on balance that he himself authorised the disputed withdrawals. It follows that Barclays is entitled to hold him liable for them.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 24 November 2019.

Karen Wharton  
**ombudsman**