

complaint

Ms L complains that Nationwide Building Society won't refund a number of payments taken from her account using her debit card, which she says she didn't make or authorise.

background

Ms L disputes 20 debit card payments to an online gambling account, totalling £200. She told Nationwide about this but it won't refund her account.

The investigator thought Nationwide was entitled to hold Ms L liable for the transactions because the payments were sent to an account held in Ms L's name. The account details, such as address and date and birth, match those of Ms L and so the investigator didn't think this complaint should be upheld.

Ms L didn't agree. She says, in summary, that the money was wrongfully taken from her account.

my findings

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

Nationwide may hold Ms L liable for the disputed transaction if she either made or authorised them, or if they were made possible because she was sufficiently negligent in her care of her card or security details.

the online account

I see that Ms L has held accounts with this online gambling site in the past. The account, to which the disputed transactions were made, was opened in mid April 2017. The merchant has confirmed that when it opened the account it verified Ms L's date of birth, address, mobile number and payment method by carrying out an identity check with a credit reference agency. I'm satisfied that those details match details that Ms L had previously supplied. It also says that it sent out an email asking the account holder to click on the link provided to confirm various details. I'm satisfied that the email address it used was one that the merchant would reasonably believe belonged to Ms L.

the transactions

Over the course of about three weeks, 20 payments, totalling £200, were made to the online account in Ms L's name. Ms L says she didn't carry out these transactions. But the payments were made using Ms L's card details. So if Ms L didn't set this account up herself, I consider the person who did knew, not only her personal information, but also her debit card details. The terms of Ms L's bank account say that Ms L should keep the card safe. She hasn't reported the card as lost or stolen or compromised in any way.

I also looked at Ms L's online activity. I note that the IP address used for the disputed transactions was the same as the one Ms L used when she logged on through mobile banking to view her bank account. They were also made from the same IP address she'd used for genuine payments she made from her bank account.

The disputed gambling transactions themselves don't look unusual. What I mean by this is that they are for similar amounts, as previous genuine gambling activity that Ms L has carried out. And Ms L has used this particular site in the past. So the disputed activity doesn't look like its unauthorised use of Ms L's online gambling account or the actions of a fraudster. And I think it's unlikely a fraudster, with access to Ms L's card details, would use these to gamble from her account with a gambling website. There isn't any way for a fraudster to benefit from these transactions – as the money would always return to Ms L. If a fraudster had her card details it's far more likely they'd try to find a way to withdraw, and benefit from, the money.

Given that Ms L says she didn't make these payments herself then, on balance, I consider there are only two other possible explanations: either she authorised someone else to make them or, she was careless in keeping her card secure. I don't need to decide which of these happened, as under the terms and conditions of the card, Nationwide is entitled to hold Ms L responsible for the payments.

credit received

Ms L received a credit from the merchant which she didn't dispute. She said this was money being returned to her account for her sister because she didn't have a bank account. The gambling site's terms and conditions clearly say that no funds can be transferred between member's accounts and that any withdrawals must go back to the method that was used for the most recent deposit. So I consider that the withdrawal was made from Ms L's online gambling account and returned to her account using her card details. The credit of £210 was paid to her on 2 May – after seven payments on 29 April. I think the credit was probably linked to these bets.

chargeback

When Ms L disputed the payments Nationwide said that it tried to seek a refund by raising a chargeback claim with the merchant, under the VISA scheme. Chargeback isn't a guarantee of a customer getting their money back. When a bank raises a chargeback, the claim may be successfully defended. The merchant defended the claim and provided evidence to show that the transactions were valid because the details it held for the account matched Ms L's details. The payments were made from MS L's bank account to an account held with the merchant in her own name. So I don't think Nationwide had any grounds to challenge this.

I appreciate that Ms L will be disappointed but I'm satisfied that Nationwide has provided sufficient evidence to demonstrate that it may hold Ms L liable for these transactions.

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 Ms L to accept or reject my decision before 19 January 2018.

Karen Wharton
ombudsman