

Complaint

Ms R complains that National Westminster Bank Plc unfairly closed her account. She's also unhappy that NatWest placed a Credit Industry Fraud Avoidance System (CIFAS) marker against her name. Ms R says the marker was added following payments from her account which she didn't authorise. She wants NatWest to remove the marker.

Background

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 2 August 2019. In my provisional decision I explained why I'd decided not to uphold Ms R's complaint.

Having looked at what had happened in this case, I thought it was more likely than not that Ms R had carried out the disputed transactions herself or authorised someone else to use her account. I said this because:

- there was no evidence to show Ms R contacted NatWest to report she'd lost her bank card – if she had done so NatWest would have cancelled her bank card;
- there were no PIN changes;
- the disputed transactions were authorised using Ms R's genuine card (chip) and PIN;
- Ms R's mobile phone was used to logon to her online banking *before* and *after* the disputed transactions;
- there was no convincing explanation for how an unknown third party could have gained possession of Ms R's bank card, mobile phone and known Ms R's online banking details;
- Ms R called NatWest to increase her daily ATM withdrawal limit *prior* to receiving the fraudulent credits into her account;
- Ms R never disclosed her online banking details to anyone else;
- Ms R said she was never approached by anyone else to use her account and
- Ms R didn't dispute the large amount of money which was paid into her account, with NatWest at the time

For these reasons I thought it was more likely than not that Ms R made or authorised the transactions that she disputes.

Based on the evidence I was satisfied Ms R had received fraudulent funds into her bank account. And had wrongfully retained these funds by authorising all of the transactions she disputed. On that basis, I thought it was fair that NatWest reported Ms R to CIFAS. I also said NatWest hadn't done anything wrong when it decided to close Ms R's account. And it had complied with the terms and conditions.

I invited both parties to send any additional evidence or comments they wished to make before I made my final decision.

NatWest accepted my provisional decision and didn't have any further evidence or comments. Ms R didn't accept my provisional decision. In summary she said:

- she only realised there was a problem with her account when she couldn't login to her online banking;
- she wasn't aware there had been fraudulent activity on her account until she was informed by NatWest staff;

- she visited a NatWest branch to find out why she couldn't access online banking and
- she didn't carry out the disputed transaction. And this would be supported by CCTV footage at the locations.

My findings

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

I thank Ms R for her submissions and I've thought carefully about what she's said. But from looking at all the evidence in this case, and for the reasons I've explained, I think it more likely that Ms R knows rather more about the fraudulent money paid into her account than she has been prepared to tell us or NatWest.

I accept it's possible that CCTV footage may have identified that someone other than Ms R made the withdrawals she disputes. But Ms R didn't have to make the withdrawals personally in order to be liable for them under the relevant rules. She can still be held responsible for them if she authorised the use of her card. So even if CCTV was available, looking at all the evidence in this particular case, I don't think I could be as sure as I need to be to say Ms R wasn't involved.

It follows that I don't uphold Ms R's complaint about the disputed transactions. I'm not persuaded that the withdrawals were carried out by someone other than Ms R or by someone without her authority. And so I don't recommend NatWest needs to do anything further about the transactions she disputes. I also don't uphold Ms R's complaint about NatWest closing her account.

In the circumstances, I think NatWest was justified in acting in the way it did. On that basis, I think it's fair that NatWest reported Ms R to CIFAS for misuse of her account. And I'm not going to ask NatWest to remove the marker.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 27 September 2019.

Sharon Kerrison
ombudsman