

complaint

Mr O complains that National Westminster Bank Plc (“NatWest”) won’t refund transactions made from his account in December 2014, which he says weren’t carried out or authorised by him.

background

On 8 December 2014, Mr O opened a new account with NatWest. The bank says it sent Mr O a PIN and card separately by post, on 8 December and 9 December respectively. Mr O says he didn’t receive them.

Mr O says he became aware that a series of transactions had been made on the card at the end of January 2015 and that he didn’t make or authorise anyone else to make them. Mr O reported the unexplained transactions to NatWest on 27 January 2015.

NatWest’s records show that the card was activated in branch on 11 December and the PIN was changed at an ATM machine on the same day. Two cash payments were then made into the account on 12 December followed by a further one on 13 December, these were made at a deposit machine using the card and new PIN. A large number of transactions were made over 12-14 December 2014. Most of these were made using contactless payments at a betting shop, so no PIN was required. But a number of payments were made using the card and the correct PIN at different shops. NatWest says that in each of these transactions the new PIN was entered correctly on the first attempt.

Our adjudicator considered the complaint, but decided not to uphold it. She felt there wasn’t enough evidence to show that Mr O hadn’t used the card or authorised its’ use.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I need to decide what is most likely to have happened in this case and so I’ve looked at each side’s version of events and the transactions that took place.

On balance, I don’t think there’s enough credible evidence for me to find that Mr O didn’t make the transactions or authorise someone else to make them.

For me to accept that Mr O’s card was used fraudulently, I’d have to believe that:

- i. an unknown person happened to know Mr O had opened a new account and managed to intercept two items of post containing the card and PIN;
- ii. an unknown person went to Mr O’s local branch to activate the card and then changed the PIN;
- iii. an unknown person made two cash payments into Mr O’s account using the card and by co-incidence the amounts paid in were exactly the same as the amounts Mr O was expecting to get from his cousin;
- iv. it was co-incidence that the card was used locally to where Mr O lived.

Going to Mr O's local branch and paying cash into the account isn't the sort of behaviour I'd expect from a fraudster. If they had cash, it'd be much easier to simply buy goods with it. And I'm concerned that Mr O changed his testimony about the cash payments into his account. Initially he said his cousin paid money in but then said he didn't. Mr O also told this service that he didn't take out online banking. But it's clear from NatWest's records that he did. So I don't think Mr O's recollection of events is reliable.

Mr O has produced a copy of his timetable and says he was at college when a lot of the transactions took place. But that doesn't really help me. I don't have any evidence that he actually did attend these classes and even if he did, it's quite possible that he authorised someone else to use the card at that time.

Mr O asked for CCTV footage. NatWest says it no longer has it. I don't think this footage would've helped me. Because even if it showed someone else making the transactions this wouldn't prove that Mr O hadn't allowed a third party to use his card and his PIN.

Finally, I take into account that Mr O had opened a new account and was expecting the card and PIN. He told our adjudicator that he was waiting for money to pay his rent. Despite this Mr O didn't contact NatWest to find out what had happened to his card and PIN for around six weeks. I don't think Mr O has provided a credible explanation for this delay.

In light of the above, I don't think NatWest did anything wrong in deciding not to refund Mr O the disputed transactions.

my final decision

For the reasons given above, I'm not upholding this complaint, so National Westminster Bank Plc doesn't need to do anything.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr O to accept or reject my decision before 10 August 2015.

**Sarah Tozzi
ombudsman**