

complaint

Mr D complains that Capital One (Europe) plc won't refund a large number of credit card payments that he says he neither made nor authorised.

background

Between August 2016 and December 2017 a number of payments were made from Mr D's credit card account to five different, but linked, websites. The payments were made under continuous payment authorities (which are used to pay for subscriptions, for example) and amounted to nearly £4,000. Each of the websites was the billing provider for adult websites. Mr D says he didn't set up the payment authorities and didn't let anyone else use his card details to do so either.

Capital One looked into things, but wasn't persuaded by what Mr D said. In summary, it said:

- The websites had confirmed that Mr D's name and correct address and email were used to sign up to them. It was unlikely a fraudster would have operated in this way.
- There would have been no financial gain to a third party. Fraud of this kind is unusual.
- The IP address used to sign up for the sites was close to his home abroad.
- The card wasn't used for any other types of transactions.

Mr D told us that he was often away for several weeks during the summer, when the initial registrations took place. He would have left his laptop and credit card in his apartment, and his laptop wasn't password protected. While he was away, his upstairs neighbour had a leak, and the building administrator had to let in builders who were fixing it; they might have been responsible.

Mr D said he seldom checked his online statements, as he rarely used his Capital One card.

One of our investigators issued a preliminary view on Mr D's complaint. She concluded that it was more likely than not that Mr D had either made the transactions himself or authorised someone else to do so. Mr D asked that an ombudsman review the case.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I have however reached the same overall conclusions as the investigator did.

There is little conclusive evidence one way or the other here. I have therefore decided what I think is more likely to have happened. I can't rule out the possibility that what Mr D has told us and Capital One is true, but there are more credible explanations. I note at the outset that Mr D hasn't been able to provide anything to support his statements that he was away from his home when the payments were set up, that workmen attended while he was away or even that repairs were needed and that access to his flat was necessary. He's provided plausible explanations as to why that might be, but I don't find them particularly persuasive.

Capital One says that there was no financial gain from a fraudster using Mr D's account in this way. Mr D disagreed, since a fraudster would have obtained access to sites they would

otherwise have had to pay for. I agree with Mr D up to a point on this – and fraudsters may have motives other than pure financial gain. But it is not irrelevant that there was no attempt to use the card details to buy tangible goods.

I note as well that it was over a year until Mr D realised there was anything wrong. Again, his explanation – that he didn't check his statements – is not implausible, but again I don't find it persuasive. I note as well that Capital One did contact Mr D about the payments, but it was another four months before he said they weren't authorised.

Finally, Mr D says Capital One should have alerted him to the payments well before it did. Since I believe he was responsible for them, that would be an unusual conclusion for me to reach. But for the sake of completeness, I don't think Capital One had any such obligation – especially to alert Mr D to his own actions.

In the circumstances, it wouldn't be fair to require Capital One to make refunds in this case.

my final decision

My final decision is that I don't require Capital One (Europe) plc to take any further steps to resolve Mr D's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 November 2019.

Michael Ingram
ombudsman