

complaint

Mr K complains that National Westminster Bank plc will not refund unauthorised transactions made on his account.

background

Mr K says that someone used his stolen mobile phone and house keys to get information to enable them to access his bank account, using up his monthly salary which had just been deposited.

Mr K considers that the circumstances of the withdrawals were such that NatWest should not hold him liable, and should refund the money that was taken out. NatWest does not accept that it is obliged to refund the money, and so the problem was not resolved.

Mr K brought his complaint to this service where an adjudicator investigated it. From the evidence, the adjudicator considered there were some inconsistencies in Mr K's arguments about how the disputed transactions came to be made, and also noted that the transactions had all been made to genuine payee accounts set up earlier by Mr K. Overall, the adjudicator did not consider that the complaint should succeed.

Mr K did not agree with the adjudicator and said, in summary:

- His phone and keys went missing at the same time, though he can't be sure exactly when that was.
- He has now also discovered that a folder, which contained all his security details and passwords, has been discovered in the garden area to his flat. He had not noticed this missing before.
- He has thought again about how someone might have been able to access his account, and now thinks it is likely to have been from information taken from the folder – rather than getting them from the phone, as he had originally said.
- There has been no inconsistency in what he has said, in that at the time this all happened he was not certain whether or not he had kept the details on his phone or in the phone wallet.
- Having information taken from his home cannot be said to be gross negligence on his part, because he would not expect things to be taken from there. He did not knowingly let a thief into his home.

my findings

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

Mr K initially told us that he had stored the details for his NatWest banking facility on his phone, which was lost or stolen along with his keys. He suggested someone could have gone into the phone to find out his details.

He has since told us that whoever got the phone must also have used his keys to enter his flat and remove a folder in which he kept all his security details – and that is how the transactions were possible. He does not appear to have noticed any break-in at the time, nor does he suggest that anything else was taken or disturbed.

The transactions coincided exactly with the deposit into Mr K's bank account of his monthly salary, prior to which there was only about £10 in the account. Whoever made the transfers sent them to two payees (one a friend of Mr K, and the other an account held by Mr K elsewhere) which Mr K had already set up on his banking facility. Mr K had made numerous undisputed transactions to these payees before.

Mr K has told us that he asked his friend to hang on to the money he received, and so can get it back again. The money that went into Mr K's account held elsewhere has, apparently, been spent at online gambling accounts linked to that account and also held by Mr K.

After very careful assessment of the overall evidence, I'm afraid that have not found Mr K's account of events persuasive and I consider that his most recent suggestion of how the transactions were made is improbable. I find, on a balance of probabilities, that NatWest is entitled to hold Mr K liable for the disputed transactions.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 14 September 2015.

Jane Hingston
ombudsman