

complaint

Ms K complains that a cheque for £986.82 sent to her by The Royal Bank of Scotland Plc ("RBS") was cashed by someone else.

background

RBS sent Ms K a cheque for an amount it had agreed to pay her. Ms K intended to pay the cheque to her own bank, for credit to her account. But her own bank was unwilling to accept it, because it was payable to her married name. The cheque was later intercepted, and paid by a third party into an account held with different bank.

Ms K says that she is entitled to receive the money that RBS agreed it would pay her and, as she did not receive value for the cheque, considers that RBS should pay her £986.82 together with compensation for what happened.

RBS said that it was not responsible for what had happened to the cheque and so was not willing to make pay Ms K's claim. As things were not resolved, Ms K brought her complaint to this service where an adjudicator investigated it.

From the evidence, the adjudicator accepted that the payee on the cheque had been changed before it was paid into the account of a third party. Whilst the adjudicator sympathised with Ms K, he did not consider that RBS was responsible for what had happened. In view of that, the adjudicator did not recommend that the complaint should succeed.

Ms K did not agree and said, in summary:

- RBS lied to the police by saying it did not have a copy of the cheque. She places the blame entirely with RBS, which withheld information and made it impossible for her to get the money back from any party.
- Although RBS told her she could complain to the bank into which the cheque was paid, she was at a disadvantage because she had no information about the account in question.
- There was only ever one cheque issued by RBS, which was in her married name. When her own bank refused to accept it, she asked RBS to stop the first cheque and issue a second one in her maiden name – which it initially agreed it would do. But it later told her it would not, as the original cheque had already been cashed.
- She told RBS there was a problem before the cheque was actually cashed – so it should have stopped the cheque then. She has been treated by RBS as though she is trying to cheat it, or was somehow involved in the fraud.
- The situation she has been left in is not acceptable, particularly as RBS knew the cheque was missing before it was paid. She has ended up significantly out of pocket and this is a lot of money for her, but a small amount for RBS.

my findings

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

It's not in dispute that Ms K has been the innocent victim of theft – and I'm satisfied that RBS entirely accepts that she was in no way involved in what happened to her cheque.

Because the cheque was paid into a third party's account elsewhere, RBS was not immediately in a position to provide Ms K with information about the holder of the beneficiary account and was also limited in terms of what information it was permitted to disclose about someone else's account held at another bank.

But I'm satisfied that RBS gave the police information about the cheque and the account, including provision of a copy of the altered cheque. The original cheque was no longer available, and that is what RBS told the police.

The stolen cheque was originally issued to Ms K by RBS on 27 September 2013. It was then intercepted at some point after she had sent it to her own bank and it had been refused by that bank. It was deposited into an account with a third bank on 14 October.

The date of issue of the cheque, and RBS's internal notes, do not support Ms K's recollection that she contacted it on a number of occasions between 13 September and 14 October to report the cheque missing.

The first call from Ms K about the problem with the cheque is recorded as being on 29 October, when Ms K seems to have told RBS that her own bank had been going to reject the cheque as it was made out in her married name, but had then lost it. In that call, she asked RBS to stop the lost cheque and issue a replacement in her maiden name. RBS told her that would take 7-10 working days.

But when RBS went to stop the cheque, it discovered that the original cheque had already been deposited and paid a couple of weeks before – and that's why RBS wrote to Ms K to say it would not be issuing a replacement.

So I'm not persuaded that RBS was warned prior to the cheque being deposited. It's possible that Ms K has confused earlier discussions she had with her own bank about the cheque with her later discussions with RBS.

In all the circumstances, I find that RBS was not responsible for the theft and later deposit and payment of the cheque. We have provided Ms K with information about how she may progress her complaints about the other banks that were involved in the matter.

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 Ms K to accept or reject my decision before 10 June 2016.

Jane Hingston
ombudsman