

complaint

Mr G says National Westminster Bank Plc is wrong to hold him responsible for transactions with a betting company debited to his account.

background

The transactions were made via the account Mr G had set up with the betting company, which he had previously used for undisputed transactions.

Mr G says the disputed transactions were not made or authorised by him. He says they were carried out while he was attending a function, which can be confirmed by a large number of other guests.

Our adjudicators did not uphold the complaint. In brief, they found it implausible, given all the circumstances, that the disputed transactions could be or were carried out by a fraudster.

Mr G asked for this review of his complaint by an ombudsman. Among other things, he argued the bank should have blocked the transactions or queried them as they exceeded a certain value. He also wished to provide expert evidence on the cloning of IP addresses, but this has not been forthcoming.

my findings

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

Mr G is unhappy we decide on the 'balance of probabilities'. He also thinks it wrong that he should apparently have to prove he did not carry out the transactions, instead of the bank proving that he did.

In any (UK) civil court, the standard of proof is the balance of probabilities, so there is nothing unusual there. And given the disputed transactions were carried out via Mr G's established account with the betting company, to which only Mr G ought to have means of access (via confidential passwords etc), and they were apparently carried out from Mr G's IP address, it is reasonable to my mind for the bank – and for me - to take the transactions as authorised unless Mr G presents a plausible case they were not.

In this respect I, like the two adjudicators, have not been persuaded. I do not understand why a fraudster would gamble on Mr G's account for no personal gain, why that person would clone Mr G's IP address or how that person gained access to Mr G's gambling account. None of these things is impossible, but they do not strike me as likely on the facts, nor is there any evidence they did take place. I cannot fairly require the bank to refund Mr G on the strength of the case he has presented.

Regarding the bank's (non-)verification of the transactions, this is an issue for each bank to decide on a case by case basis. There is no legal or regulatory requirement for such steps to be taken in any particular case, and frankly they are undertaken mainly for the bank's own protection, since unauthorised transactions must in any case be refunded. Understandably any arguments of this nature are even less relevant where, as here, the evidence does not point to fraud having taken place.

my final decision

I do not uphold Mr G's complaint.

Roger Yeomans
ombudsman