

complaint

Mr R has complained PayPal Europe Sarl & Cie, SCA won't refund him for gambling transactions which he didn't make.

background

In June 2018 Mr R (under his previous name of Mr T) brought a complaint to the ombudsman service. He'd complained to PayPal about sets of gambling transactions. He'd told them he thought his PayPal password had been compromised by using a shared pc. They refunded him money for transactions that happened on 8 and 10 June 2018. They'd then rejected his claim for nearly £700 worth of transactions. He didn't think this was fair. PayPal had subsequently decided to close Mr R's account.

Mr R told us a bank card he'd expected to be delivered hadn't arrived. It looked as if this card had been added to his PayPal account allowing payments and withdrawals to be made. We asked PayPal for additional information relating to the disputed transactions. They refused to provide this as we had a complaint from a Mr T but their account was in the name of Mr R. Despite us sharing other information about Mr T (or Mr R), PayPal refused to provide us with further information. They cited GDPR regulations which prohibited them from doing this.

Having considered the limited information available but finding Mr R's story plausible, our investigator asked PayPal to refund Mr R along with 8% simple interest a year.

PayPal disagreed with this outcome but didn't provide us with any further information. They asked this complaint to be considered by an ombudsman.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion and for roughly the same reasons as our investigator. I'll explain why.

The Payment Services Regulations primarily require banks to refund customers if they didn't make or authorise payments themselves. Certain other circumstances do apply – but nothing that's had a bearing on the outcome I've reached here. So when we look at whether a bank has acted fairly in rejecting someone's fraud complaint, one of the things we consider is whether the customer made the transactions themselves or allowed them to be made. If they did, then we generally wouldn't ask the bank to refund them.

So to help me decide what happened, I've looked at the evidence of the transactions, as well as what both PayPal and Mr R have told us.

Firstly I can see the timeline of events and how the transactions were made were covered in our investigator's view of 26 July 2019. I don't intend to repeat everything that was said there. Except to say I'm satisfied I've reviewed the complaint thoroughly.

The facts I think that are pertinent to this complaint include:

- Mr R's missing bank card was added to his PayPal account. PayPal has given us nothing to suggest this isn't the case.

- PayPal accepted Mr R's fraud claims for similar transactions on 8 and 10 June 2018 and repaid him what he'd lost.
- At that stage Mr R told PayPal he had accounts with two other gambling organisations. This can also be seen by a review of Mr R's PayPal history which PayPal sent us before their new GDPR guidelines were in place.
- It is the fact that Mr R had these accounts that PayPal seem to have relied upon to reject Mr R's fraud claim. But he'd already said his PayPal account had been compromised so I don't think that would be enough to decide Mr R had made these transactions.
- There's obviously a different pattern of use in Mr R's PayPal account. He'd made transactions in early June with the same company as the disputed transactions on 22 June. Mr R hadn't disputed those earlier transactions so I'm not sure why he'd have disputed the later transactions if he'd made them.

So based on the evidence we have I believe Mr R didn't make or authorise those transactions. I will be asking PayPal to reimburse him along with 8% simple interest a year.

I find PayPal's attitude to sharing evidence troubling. Our rules (DISP 3.5.8 to 3.5.10) show we can oblige businesses to provide us with evidence that we will then treat securely. I should stress here that it's not just their failure to provide us with the evidence we requested that has had a bearing on the outcome. I've considered the limited evidence they provided and also taken into account what Mr R has told us to come to my decision.

my final decision

For the reasons I've given, my final decision is to instruct PayPal Europe Sarl & Cie, SCA to:

- Refund Mr R £690 for the transactions he didn't make; and
- Add 8% simple interest a year from 22 June 2018 until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 February 2020.

Sandra Quinn
ombudsman