

complaint

Mr H, as a director of Z, a limited company complains that National Westminster Bank Plc failed to apply a daily limit to a debit card used by another director.

background

In July 2013, Mr K, a director of Z, a limited company used his company debit card to spend a significant sum on online gambling. The bank contacted Mr H to confirm the transactions were genuine. Mr H says that during that call the bank agreed to a daily limit for the card of £100. In October, during a weekend, Mr K used the card to pay for online gambling amounting to £4,000. Mr K contacted the bank and the card was cancelled.

Mr H complained to the bank and it explained that the card could not be restricted as it had suggested in July. It apologised and offered to pay compensation of £100. Mr H brought his complaint to this service and asked that the bank refund the £4,000.

The adjudicator recommended that this complaint be upheld in part and that the bank pay £500. The bank could not trace a recording of the call in July and its records did not indicate that Mr H had been told the card could be limited. It did not consider that compensation of £500 was merited.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where necessary and / or appropriate, I reach my decision on a balance of probabilities – that is, what I consider is most likely to have happened in the light of the available evidence and the surrounding circumstances.

The key to this complaint is what was said in the course of the call between Mr H and the bank in July. Mr H says that having been contacted by the bank about the online gambling transactions he asked that the card be given a daily limit £100. In its first response to his complaint the bank accepted it did agree to limit the card, but that the advice was incorrect.

The card cannot be restricted and Mr H's request could not be actioned. Regrettably the bank did not listen to or retain the call recording and it is no longer available.

Subsequently the bank says that its notes do not refer to the card being restricted and that in dealing with the initial complaint it gave Mr H the benefit of the doubt.

I note that the card was not used for any transactions greater than £100 from July through to October when it was next used for online gambling. Mr H contacted the bank the day after the transactions went through and cancelled the card. This implies that Mr H was monitoring the account and had no reason to suspect that his request had not been actioned. I also note that the fact that he cancelled the card in October suggests that he would have done so in July had he not thought that the problem had been addressed, in part at least, by the application of a £100 daily limit.

I recognise that the ultimate responsibility for the spending lies with Mr K. He was a director of the company and had access to the company bank account. However, I have to consider if the bank failed to act in a way that would have minimised the problem. Mr H is clear that he was told that the card could be restricted and subsequently, when he complained, the

bank initially agreed with him. On balance I accept that he was told in July the card was restricted. This meant Mr H believed the risk to the company's bank account had been limited. For that reason I consider that compensation is due. However, I do not hold the bank wholly responsible for the spending by Mr K and I do not consider it liable for the £4,000, but I agree with the adjudicator that an appropriate sum is £500.

my final decision

My final decision is that I uphold this complaint in part and direct National Westminster Bank Plc to pay Z, a limited company compensation of £500.

Ivor Graham
ombudsman