

complaint

Mr W complains that Creation Financial Services Limited (t/a Sygma Bank) won't reimburse payments he says he didn't make on his credit card.

background

Mr W contacted Sygma to report that he'd lost his credit card. Sygma stopped Mr W's card. But it had already been used to make a series of payments and cash machine withdrawals. Mr W says he didn't make or authorise any of those payments. He's asked Sygma to refund them. However, the bank's unwilling to do so. It thinks Mr W might've allowed someone else to use his card and personal identification number (PIN), either intentionally or by allowing the details to become known.

Our adjudicator noted there were some inconsistencies in Mr W's account of what had happened. She felt the available evidence didn't readily suggest the card was used by an unknown third party. Overall, she didn't think Sygma's position was unreasonable.

Mr W didn't accept the adjudicator's findings. He said he didn't know how someone else could've known his PIN. He had difficulty himself remembering it. But he could demonstrate he was elsewhere when the card was used. The adjudicator wasn't persuaded this changed things. So the matter's been passed to me for review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where there's a dispute about what happened, I've based my decision on what I think's most likely in light of the evidence.

As the adjudicator observed, that evidence suggests it's more likely the card was used by someone who had possession of it with Mr W's permission. It doesn't indicate it was used by an unknown party. Mr W told us he didn't keep a record of the PIN. There was limited opportunity for anyone who stole his card to have seen him entering his PIN. And it seems a little surprising that an opportunist thief who'd been able to do this wouldn't simply have used the card in the UK, rather than travelling abroad to do so.

Mr W says he didn't make the payments himself. He says he can show he was in the UK, and the payments were made in mainland Europe. But that doesn't mean they were made by someone who had the card without his knowledge or permission. And I think that's quite likely what might've happened here. Mr W's business involves continental transport. The transactions are broadly consistent with that activity. It's quite possible whoever was using the card was given it and the PIN to cover the costs of such a journey.

If that's what happened, then it's possible they used the card for other expenditure, like the cash machine withdrawals. But even if that were the case, Sygma would be entitled to hold Mr W liable for use by someone who had the card with his permission. As a result, I'm satisfied the bank doesn't need to refund him.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 29 December 2015.

Niall Taylor
ombudsman