

complaint

Mr C has complained Vanquis Bank Limited is expecting him to pay £1,500 for a transaction he didn't authorise.

background

On 3 February 2018 Mr C reported his Vanquis credit card missing. He wasn't completely sure when it'd gone missing but he wondered whether this had happened when he was abroad around the middle of January. Mr C had used the card himself when he was abroad on 10 January and it had not been used since.

In fact it had been used on 27 January for a £1,500 transaction in what may have been a used car dealer. Mr C insisted this wasn't him. He still felt someone may have seen him use his PIN on 10 January and then stolen his card.

Vanquis thought this scenario was unlikely. No-one was likely to steal his card, travel to a foreign country just to spend £1,500 – only a portion of the credit available on the account – 17 days later. Mr C was adamant he'd not done this himself and brought his complaint to the ombudsman service.

Our investigator felt overall Mr C must have done this himself. She couldn't understand how someone could have known Mr C's PIN. She wouldn't ask Vanquis to credit this amount back to his credit card account.

Mr C was unhappy with this outcome. He asked an ombudsman to consider his complaint.

I completed a provisional decision on 6 February 2020. I didn't believe there was enough evidence to show Mr C had authorised the disputed transaction so I asked Vanquis to refund him.

Vanquis disagreed with this outcome. They felt this expenditure did match his regular pattern. They also queried whether Mr C had reported the loss of his card and €50 with the police.

I now have all I need to complete my final decision.

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 as in my provisional decision. 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 tests do apply – but not in the case here where a credit card is involved. 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 transaction, as well as what Vanquis and Mr C have told us. Our investigator also got hold of Mr C's bank

statements for his current account. Vanquis has asked to see these but firstly they have not been provided to us in a user-friendly format nor is there anything to see of any major interest. They're not something I've relied upon in my decision.

Firstly I can see the timeline of events and how the transaction was made were covered in our investigator's view of 25 June 2019. I don't intend to repeat everything that was said there. Except to say I'm satisfied I've reviewed the complaint thoroughly.

I think the following are pertinent to this complaint:

- Mr C called Vanquis on 15 January and didn't mention then that his card was missing. I accept he didn't use it all the time so may well not have noticed. But he may well have needed to identify himself by using some of the card details which most likely he did from having the card in front of him.
- Vanquis can tell us the transaction on 27 January was completed with the genuine card and PIN. They've stated the PIN was entered correctly first time but I have seen no evidence showing this. No original audit data has been provided. Following the provisional decision Vanquis stated that at a minimum someone must have got Mr C's PIN right on the third attempt. I agree but if that was the case it would also suggest the PIN was entered by someone who wasn't sure of it.
- Vanquis originally thought the disputed transaction was for car hire. This was something Mr C did regularly so they thought there would have been evidence this was him.
- None of this proved to be the case. In fact the business no longer exists nor did Vanquis find anything out about this transaction to help verify what was bought. This is surprising as they knew Mr C disputed this transaction was his.
- Vanquis has continued to say this transaction was similar to Mr C's history. This transaction was not for car hire (which Mr C did do regularly) and there's no evidence to say what was bought – except what the merchant category tells us – so I continue to disagree with them.
- Mr C stored his PIN on his phone (in the notes application). His phone hadn't gone missing but that doesn't mean somebody wasn't able to access it. He used his date of birth as ID for his phone which suggests it wouldn't have been difficult to access his phone.
- Mr C noticed his card was missing when he went to use it. He quoted a specific retailer to our investigator and said he used his other card instead. There's no transaction for that retailer on Mr C's other bank statements at this time.
- Mr C believed he lost €50 at the same time as his Vanquis card went missing. He reported this to the police. There's no police report for this (nor, to be fair, would I expect there to be one).

I've considered this case carefully and on balance I've decided there's not enough evidence to say Mr C made this transaction. I say this because:

- There's plenty of opportunity for a compromise of Mr C's card and PIN. Mr C's PIN wouldn't have been difficult to discover if someone wanted to find it out;
- There's no audit data to show whether the PIN was successfully input first time or anything else about the transaction;
- Vanquis carried out a limited investigation into the fraud itself and didn't get any information from the merchant about what was purportedly bought;
- The merchant where the transaction happened no longer exists. This seems odd;

- Mr C may be right about his card being stolen whilst he was abroad but I don't think that's likely. It could just as easily have been stolen in the UK and then used immediately;
- I've considered the fact Mr C had more credit available than the fraudster used. Everybody likes to imply they know how fraudsters behave but in this case it could just as easily be a fraudster using the card once and striking it lucky there was enough available credit in the first place;
- Mr C didn't use his debit card when he suggested he might have on 3 February 2018. But we were asking him this more than a year on so I'm not surprised he may have got this wrong; and
- I've reviewed Mr C's card use history with Vanquis. He's had this account a number of years. Although there are a few declined transactions on his account Vanquis weren't able to tell us anything about these. This disputed transaction – both what it may have been for and where – is out of character for how Mr C uses his Vanquis account.

It appears that Mr C repaid his Vanquis credit card debt including this disputed £1,500 transaction. In May 2018 Mr C paid £2,000 off his card which would have included this debt. As I've decided there's not enough evidence to show Mr C made this transaction, I will be asking Vanquis to repay £1,500 to him, along with 8% simple interest from May 2018.

my final decision

For the reasons I've given, my provisional decision is to instruct Vanquis Bank Limited to:

- Refund £1,500 to Mr C for the disputed transaction; and
- Add 8% simple interest to that amount from 4 May 2018 until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 April 2020.

Sandra Quinn
ombudsman