

## **complaint**

Miss G complains that Barclays Bank Plc is holding her responsible for gambling transactions made from her account and which she denies making or being responsible for. Miss G has been declined a refund of the value of the transactions.

## **background**

Miss G is disputing 171 debit card payments, with a total value of £24,235.50, made between 31 March 2015 and 18 August 2015. All payments were made online to a gambling company. Miss G says that she never set up an account with this company and she has been a victim of fraud.

Our adjudicator made a number of findings. He found:

- when the gambling account was opened on 22 March 2015, Miss G's name, address, date of birth, mobile number and email address were correctly recorded and matched the banks records;
- while Miss G says that she never opened an account with this gambling company, she has used, and continues to use, another company;
- all the transactions were carried out using three different debit cards issued to Miss G for her account. And the 3 digit security code associated with each of the cards used was entered for every transaction. The three cards were each registered with the gambling company;
- Miss G cannot explain how her correct personal details, as are recorded by the gambling company, were obtained by it or how the disputed transactions were able to have been carried out using three different debit cards issued to Miss G;
- It was not apparent how an unknown third party had been able to obtain the relevant information on all three cards in order to register it and then continue to carry out the disputed transactions;
- Miss G says that she lives with her two young children and all of the three cards were received by her at her home address. She also says that her family live some distance away and no one else has unaccompanied access to her house;
- Miss G says she cut up previous cards, on receipt of replacement cards, and she keeps her cards in her phone case which is with her at all times. She says she has never done anything to breach the security of her account, including having never told anyone else her PIN;
- during the period that the disputed transactions were taking place, money was being spent with the gambling company that Miss G doesn't dispute using. And the pattern of transactions was similar. Miss G also appeared to be carrying out a number of transfers between her accounts and making cash deposits which seemed to be funding the disputed transactions;

- Miss G had said she was not monitoring her account due to personal circumstances but she had raised disputes with the bank concerning payments to other gambling companies on 3 June 2015 which led to the issue of one of the cards involved;
- the bank has a copy of a letter it sent to Miss G on 15 June 2015 asking if she would confirm whether or not a £20 payment to the gambling company, that was the beneficiary of the disputed transactions I am dealing with, was genuine. And Miss G had confirmed that it was, although she later told the bank this must have been done in error;
- the pattern of the disputed transactions did not have the appearance – either in terms of timing or type - of those that would be made by a fraudster who has gained illicit access to an account; and
- Miss G had said that that she believed her email address was hacked before the end of March 2015 and she speculates that this is how her personal and bank details may have been compromised. However, the adjudicator found it unlikely that any potential fraudster would have been able to obtain details of the different cards and this didn't explain how the 3 digit security codes would have been obtained.

In light of his findings, the adjudicator said he thought that the bank was entitled to hold Miss G liable for the transactions. Miss G has asked that her complaint be reviewed 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 am afraid to say to Miss G that I have come to the same findings and conclusions as the adjudicator. I recognise that this will come as a great disappointment to Miss G and that the bank's decision to hold her liable for these transactions has already caused her considerable upset, worry and ill health.

I should say, first, that where evidence is inconclusive, or contradictory, I have to reach a decision on the balance of probabilities; that is, what I consider is most likely to have happened, given the evidence available and the wider surrounding circumstances.

Of course, I can never know with certainty what has happened here. Miss G is emphatic that she is not responsible for the transactions and she has raised a number of questions that I will address. But, without repeating here the information I set out in the background section of this decision, based on the findings there, it is hard to conclude, on balance, that the bank hasn't acted fairly and reasonably in holding her liable for the transactions. Miss G maintains that her email may have been hacked or that some other kind of attack of her banking details and security has taken place by fraudsters – I have read all the media links that she has sent where it is speculated about how fraud may occur.

But, I am not persuaded that the evidence in this case suggests that a fraudster was able to attack the security of Miss G's account and carry out the transactions that she disputes, given how they were carried out and what information was used. And there is no evidence in this case that a member of the bank's staff was, or indeed how a member of the banks' staff could have been, involved in making the disputed transactions.

Miss G is concerned that the transactions were made using a variety of IP addresses and some of those addresses are linked, in their electronic record, to areas of the country distant from Miss G's home. But that particular part of the electronic record of the IP address does not represent the geographical location of where the transactions took place and therefore does not support the assumption that the transactions could not have been made by Miss G.

Apart from the three cards of Miss G that the gambling company had registered to the gambling account, it has also registered a fourth card that is not in the name of Miss G. It has not been possible to link this card to Miss G, or to establish why it would have been used to make transactions on a gambling account in Miss G's name.

That, itself, does raise a question about the gambling account. But I don't think, having regard for everything else, even without being able to explain the fourth card's association to the gambling account, I can conclude that all the transactions were made by fraudsters. As the adjudicator said, the card may simply have been linked to this gambling account in error.

Finally, Miss G suggests that the bank should have warned her about the transactions being made – given that she says she wasn't aware of them. But I can't say that the bank had any obligation to do so. The bank wasn't wrong to allow the gambling transactions to take place, given that they were – on the face of it, to the bank – properly authorised. Ultimately, a bank has a primary responsibility to allow its customer to access and use their funds as they wish.

In conclusion, I can't say, beyond doubt, that Miss G made the transactions and she is very clear in saying that she did not know about them and about the immense impact on her in having found out about them. Of course, I am very sorry for her situation as she now describes it. But, the evidence suggests to me that it is more likely than not that Miss G did make the transactions that she now disputes. And, therefore, I can't fairly and reasonably require the bank to refund to Miss G the value of those transactions.

### **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 Miss G to accept or reject my decision before 4 January 2016.

Ray Neighbour  
**ombudsman**