

complaint

Miss W complains that PayPal Sarl & Cie, SCA has not refunded transactions that she says she did not make or authorise.

background

Miss W used a gambling website to place a number of bets. She paid the stakes to the bookmaker from her PayPal account, which was fed by her bank account.

Miss W complained to PayPal about a number of transactions which she said she had not carried out or authorised. PayPal declined to refund the transactions. Miss W referred her complaint to this service.

Our adjudicator did not recommend that the complaint should be upheld. Briefly, he gave these reasons:

- Miss W said she used the gambling site and won some money, then began using it at a later date but this time she lost. She borrowed money for further bets to try to restore her position, but she lost again.
- Miss W disputed transactions that had already been refunded to her. Nevertheless, the adjudicator looked in detail at the disputed transactions.
- Miss W has suggested that she may have been responsible for some of the transactions on the gambling site on the same day as others which are in dispute. The adjudicator said it is theoretically possible that another person could have used her account, provided they knew her sign-on and access details and could use her computer, or if she left her machine online and unattended for long periods. But that does not explain why anyone would gamble without the chance of winning – because any winnings would revert to Miss W's own account. So the adjudicator thought it was unlikely.
- Even if the disputed transactions were carried out by another person, they could only have gained access to the account as a result of gross negligence by Miss W.
- The adjudicator believed that the disputed transactions were carried out by Miss W.

Miss W did not agree with the adjudicator's conclusions and asked for the case to be reviewed by an ombudsman.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so I am sorry to tell Miss W that I have come to the same conclusions as the adjudicator and for much the same reasons.

The question at the heart of this complaint is whether or not Miss W should be held responsible for the transfers that resulted from the bets placed on her account with the gambling website.

Miss W has told us that she used the gambling account to place bets, and she had agreed the arrangement for the money to come out of her bank account via her PayPal account – and for winnings to go back to her the same way. The transactions which Miss W disputes all arise from gambling activity from her own account. For the reasons given by the adjudicator, I do not believe that the bets were placed by an unauthorised third party. I reach this conclusion on the balance of probabilities - in other words, what I consider is more likely than not to have happened in the light of the available evidence. I do not find that the transactions should be refunded to Miss W.

PayPal's role in the transactions was to receive money from Miss W's bank account and transmit it to the bookmaker, at the consumer's request, and to arrange withdrawals from her bookmaker account to her bank account. I am satisfied that PayPal followed her instructions, acting as a money transmission service, and has not held a positive balance on her PayPal account. So I find that PayPal has not done anything wrong and is not holding any of Miss W's money.

I realise that Miss W will be disappointed with my decision. I appreciate that she is facing difficulties as a result of her debts and she has my sympathy. But I do not find that PayPal has acted unfairly or unreasonably.

my final decision

My final decision is that I do not uphold this complaint.

Colin Brown
ombudsman