

## **complaint**

Mr H complains that Lloyds Bank PLC won't refund transactions that he says he didn't make or otherwise authorise.

## **background**

In February 2019 upon receiving his bank statement, Mr H called Lloyds to dispute a number of transactions made from his Lloyds current account between 2 January 2019 - 25 February 2019. Lloyds originally recorded 19 disputed transactions. These transactions were carried out using Mr H's card, along with his personal identification number (PIN). Lloyds declined the claim on the basis that Mr H was grossly negligent. They highlighted that:

- A balance enquiry was carried out just before a disputed cash withdrawal of £1,000.
- The same IP address Mr H previously used to check his online banking was used to make a disputed card payment of £1,000 to a company I'll refer to as V.
- There were multiple balance enquires during the period of dispute and believed Mr H should have noticed the missing funds sooner.

Unhappy with how Lloyds handled things, Mr H referred his complaint to this service.

Mr H also said:

- He gave his debit card details to his parents so they could put money into his account.
- He gave his card and PIN to a friend so he could withdraw cash from his account in January 2019.
- He left his debit card in his car when it was serviced.
- His partner doesn't have access to his debit card.
- He'd the card in his possession during the period of the disputed transactions and it wasn't lost or stolen.
- He hasn't had any problems since he reported the disputed transactions to Lloyds and his card was cancelled on 6 March 2019.

Mr H said Lloyds looked into his complaint again as he'd obtained refunds for the majority of the disputed transactions from the merchants directly. But disputed the following three transactions that Lloyds refused to refund:

- £1,000 cash withdrawal made using Mr H's card and PIN.
- £250 cash machine withdrawal made using Mr H's card and PIN – not initially disputed.
- £1,000 online card payment to V made using Mr H's debit card.

Mr H said Lloyds paid him £75 for the way he was treated when he complained about the disputed transactions and £14 for his call costs. He felt this evidenced that Lloyds had made a mistake. Mr H also said he disputed the transactions earlier than his call of 6 March 2019 and this was done in branch.

Our investigator didn't recommend the complaint should be upheld. In summary, she felt unable to conclude that the cash withdrawals and card payment had been made fraudulently and was persuaded they were most likely made or authorised by Mr H. She also felt he'd been inconsistent in his testimony to Lloyds and our service.

Our investigator referred to a telephone conversation she had with Mr H where he told her that the £1,000 cash withdrawal was his fault and he'd gotten mixed up when he made the report to Lloyds. Our investigator discussed the online payment to V. Mr H clarified that he'd requested access to his online banking in branch - not online. Mr H said he'd received two separate letters from Lloyds relating to this request but he should have only been sent one letter. Our investigator asked Mr H to provide evidence of the two letters to her – he said he would.

Unhappy with our investigator's outcome, Mr H asked for an ombudsman to review the case. He said he wanted to send us further evidence but he didn't want to send this to our investigator.

The case was passed to me and I invited Mr H to submit any further evidence he wanted me to consider. Mr H didn't respond, so I've reviewed the case based on the evidence available to me.

### **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, my review of the evidence has led me to the same overall conclusions as the investigator previously set out and for much the same reasons. As Mr H accepted he was mistaken about the £1,000 cash withdrawal, I don't intend to make a finding on this point.

Generally, Lloyds can hold Mr H liable for the disputed withdrawals if the evidence suggests that it's more likely than not that he made or authorised them himself.

I'm satisfied from Lloyds' technical evidence that Mr H's genuine card and PIN were used to make the disputed transactions. But the regulations relevant to this case say that is not, on its own, enough to enable Lloyds to hold him liable. So I also need to think about whether the evidence suggests that it's more likely than not that Mr H consented to the cash withdrawal and card payment.

From what I've seen, I don't think it's unreasonable for Lloyds to conclude that Mr H authorised the transactions. This is because:

- The disputed cash withdrawal was made using Mr H's genuine card and PIN, but there's no convincing explanation for how a third party could have known Mr H's PIN. It seems unlikely that an opportunistic fraudster would've been able to obtain Mr H's card, guess his PIN correctly first time and return Mr H's card without him knowing. Mr H mentioned he'd given a friend his card and PIN to withdraw money from a cash point in January 2019 but there's no explanation of that same friend having access to Mr H's card again in February 2019 – without his awareness or permission. I've also taken into account that Mr H didn't initially dispute this transaction with Lloyds and given the number of transactions that he did dispute, I don't see why he would have missed this one.
- The payment to V was made using Mr H's debit card details. I've listened to Mr H's calls with Lloyds. Mr H originally told Lloyds that he was aware of the company V and that they provide credit cards but he needed to check the transaction with his partner. In a later conversation with Lloyds he didn't seem to have the same awareness of V and

suggested it was an online payment. During a conversation with our service - that I've also listened to - Mr H provided a partial post code matching some of the details we obtained for the payment to V. I'm not persuaded Mr H wasn't aware of the payment to V or that he didn't consent to it because of the inconsistencies in his testimony about this transaction.

- It also seems unlikely that a fraudster would only use the card details once then stop whilst there were funds still available.
- Mr H said he only set up online banking when he complained to Lloyds in March 2019. But I've seen that the information Mr H needed to complete the registration of his online banking was requested on 20 February 2019. Mr H says this wasn't him but he would only have been able to complete the registration for his online banking in March 2019 with the information requested on 20 February 2019. Mr H states he requested this information in branch not online but we have no evidence to confirm his version of events. I've seen that the IP address used on 20 February 2019 was the same IP address used to make the disputed payment to V. I appreciate Mr H disputed the legitimacy of the IP address evidence but I'm persuaded it aids the overall picture that this disputed payment was more than likely made by him or with his authorisation.
- Mr H didn't report the disputed transactions for almost two months. He says this is because he only noticed the funds were missing when he received his bank statement (which I'm satisfied was dispatched on 21 February 2019). I have seen that a statement was issued to him on 21 January 2019 which also contained disputed transactions but I'm satisfied the bulk of the disputes would have appeared on his February 2019 statement. Mr H enquired about some of the transactions at the end of February 2019 but I've seen that there were several balance enquiries between 4 February – 26 February 2019 – so I'm not persuaded the earliest Mr H ought to have known about the disputed transactions was following the issuing of his February 2019 statement. Given the large amount of money that was missing, I'd have thought he'd have reported it sooner than he did. I've seen no evidence to confirm Mr H's account that the transactions were disputed earlier in branch.

All in all I don't find Mr H's testimony to be persuasive or plausible. For all the reasons I have given, I think it's more likely that Mr H made the cash withdrawal himself than it was carried out by someone else. I also find that the card payment to V was made by Mr H, or with his consent.

I therefore think it's fair and reasonable for Lloyds to refuse a refund of the disputed transactions on the basis they were authorised by Mr H.

I do think Lloyds' fraud department could have been a bit more patient with Mr H. At the point his call was transferred through to them, he'd already spent approximately an hour on the phone to another department with Lloyds. I think they were abrupt with him and could have handled this call more sensitively. I therefore agree with the compensation already paid along with the refund of Mr H's call costs. I make no additional award on this point.

### **my final decision**

My final decision is that I don't uphold Mr H's complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 23 January 2020.

Dolores Njemanze  
**ombudsman**