

complaint

Mr R complains that National Westminster Bank Plc has held him responsible for a number of fraudulent transactions that were carried out using his debit card.

background

In November 2014 Mr R advised NatWest that a number of fraudulent transactions totalling £8,000 were carried out using his debit card after his wallet was stolen. The bank investigated the matter but in their final response said the transactions had been carried out using the card issued to Mr R and the correct personal identification number (PIN). The bank said there was a time lapse of nearly four hours between the last transaction Mr R said he carried out and the first of the transactions he said was fraudulent. The bank therefore ruled out the possibility that someone had observed Mr R entering his PIN because of the delay between the two transactions. As Mr R told the bank his PIN was not written down in his wallet or provided to anyone and that his original PIN advice slip had been destroyed, the bank said it could not see how anyone else could have obtained his PIN. It also made the point that the payments identified as fraudulent were made to a casino operator to which Mr R had himself made large payments previously. Taking account of all of this, the bank rejected Mr R's claim that the disputed transactions were fraudulent.

The complaint was referred to this service and our adjudicator did not recommend that the complaint should be upheld. She thought it highly unlikely if someone else had been in possession of Mr R's card with knowledge of his PIN that they would have waited nearly four hours to use it. She said the card was used in an establishment of which Mr R was a member. She said the person who used the card did not do a balance check beforehand, which suggests they knew how much money was on the account. She also pointed out that there were no attempts to use the card after it was cancelled, which she would have expected if it had been in possession of someone other than Mr R.

In response, Mr R said, in brief summary:

- it is not clear how someone found out his PIN and it may not have been at obtained at the point he last used his card
- the fraudster did not do one large transaction but a series of smaller ones and stopped at £8,000 as identification would have been requested for anything larger
- he was advised by NatWest that the fraudster attempted to withdraw some cash after the card was cancelled
- the fraudster attempted to use some of his other cards which the systems prevented and he would have expected the same for the NatWest debit card use.

Our adjudicator did not alter her original opinion as she said she had checked with the casino operator and they said personal identification, by way of a passport or driving licence, would have been required for any spending over £1,500.

Mr R was still not happy with the adjudicator's recommendation as he said he believed someone with access to the bank systems could be responsible for the fraud. He also said he has never been required to provide a passport or driving licence when visiting the casino.

As the matter remains unresolved it has been referred to me for a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where there is a dispute about what happened I have based my decision on the balance of probabilities - what I consider most likely to have happened in the light of the evidence.

I am sorry to disappoint Mr R but I have come to the same conclusion as the adjudicator and for broadly the same reasons and so there is little further that I wish to add. From everything I have seen I am not persuaded that the bank has done anything wrong in holding Mr R responsible for the disputed transactions as, on balance, the evidence leads me to believe that the disputed transactions were authorised by Mr R. I do not think it likely that a member of the bank's staff accessed Mr R's account details, stole his wallet, and then visited a casino of which he is a member to gamble with money from his account. I would not have expected the bank's systems to stop the transactions going through as they were made with a valid debit card and the correct PIN. Mr R had a balance of approximately £8,000 on his account at the time and the transactions were carried out at an establishment where Mr R had previously spent money.

my final decision

My final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr R to accept or reject my decision before 1 May 2015.

Sarah Carter
ombudsman