

complaint

Mr E complains that Bank of Scotland plc (trading as Halifax) will not refund payments he says he did not make from his account.

background

An online account was set up with a gambling company in Mr E's name. Payments of £37,030 were made to the company using his bank card. Mr E said he did not set up the gambling account or make any of the payments.

The adjudicator did not recommend that the complaint be upheld. She said that:

- An account was registered using Mr E's correct personal information and his bank card details entered to make payments.
- The payments were made using the same device that Mr E used to access online banking.
- It was not clear how an unknown third party would have had access to Mr E's property and all the information needed to make these payments.
- That person would not benefit from gambling as any winnings would be returned back to Mr E.
- Mr E had said that someone had entered his house to obtain the information and used his device to carry out the payments. This was something that neither Halifax nor this service could verify. And she was not persuaded it was the most likely explanation.
- She said that if Mr E suspected another person he should raise this with the police.

Mr E did not agree. He has now provided a copy of a letter he says was left on his doorstep in which another party says that she made the payments. That person was staying at Mr E's house and while he was sleeping used his computer. That person then took Mr E's phone and made further bets. He said he is trying to get in contact with a police officer dealing with the case but had not had an update.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've read the letter Mr E has provided. I have no way of verifying this and it's clear that the party involved did not want to make a sworn statement to police. Mr E says he has sent a copy of the letter to the police and no doubt this will be taken into account in any criminal investigation. I've nothing to suggest that any related charges have been made or that police have been liaising with Halifax about this.

I won't be able to say exactly what happened here. I'll need to decide whether it's reasonable for Halifax to hold Mr E responsible for these payments. I note that the letter from the third party says that all Mr E's personal information was auto-filled by his computer. I find it unlikely that this would include his bank card details and the CVV (card verification value) number from the back of the card that was used to authorise the payments.

During the period the payments were made there was regular access to online banking using the same device. There's no explanation of how someone other than Mr E would have been able to do so. I note that the first payment in dispute was made at 7:38am on

14 November 2015. This has followed a successful log on to online banking at 7:27am. No payments were then made until 7:44pm that day and then payments were made at intervals until 1:25am on 15 November 2015. I note that within 10 seconds of that last payment being made a successful log on using the same device was made to online banking. I'm having difficulty understanding how this could all have been possible if the payment was made by an unauthorised party. I can see that Mr E's bank card was cancelled at 3:11am that day.

I'm afraid that I am unable to find on the evidence that the most likely explanation is that these payments were made without Mr E's knowledge and authority.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 7 December 2016.

Michael Crewe
ombudsman