

complaint

Mr R complains that Barclays Bank Plc has held him responsible for transactions of £900 on his account that he says he did not make or give his permission for.

Barclays also closed his account, a week after it was opened, but after the disputed transactions took place. Mr R was originally unhappy with that but he now accepts that Barclays was entitled to do this. Mr R subsequently withdrew the remaining funds of £990 from the account.

background

Mr R opened the account with a nil balance. A cash deposit of £1,890 was made, not by Mr R, but by someone he knows, for his benefit. The disputed transactions were cash machine withdrawals over three consecutive days.

Our adjudicator was satisfied that Barclays had sent the personal identification number ("PIN") notification – for the new account – to Mr R's current address four days before the first disputed transaction. Two days later, the card was sent, by first class post to the same address. The adjudicator considered that in order for someone to obtain both the card and PIN, they would need to have had access to Mr R's property. He did not consider it likely that someone would be able to intercept two separate letters on different days, which would not in all likelihood have been identified as being from the bank from the outside of the envelopes; or to contain what they did.

Mr R says that no one else lives at his address, nor does anyone have regular access to it. He says it is not possible that the card and PIN notification was taken by someone from within his home.

On balance, the adjudicator concluded that the card and PIN were delivered to Mr R's address and because there is no explanation to explain how they were taken by someone, he did not consider it could have happened without his knowledge.

The adjudicator also concluded that it was unlikely that someone unknown to Mr R would have been able to intercept the card and PIN before its delivery to Mr R's address. And it is unlikely that the card and PIN were lost, separately, and found by an opportunist fraudster.

In light of his findings and conclusions, the adjudicator did not consider there were grounds to ask Barclays to refund the value of the disputed transactions to Mr R.

Mr R has asked that his complaint be reviewed by an ombudsman. He maintains that the card and PIN must have been intercepted.

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 have come to the same findings and conclusions as the adjudicator and for the same reasons.

Of course, I cannot be certain now as to what occurred with regard to the card and PIN. As the adjudicator said, where evidence is incomplete, 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 that is available and the wider surrounding circumstances. The evidence I have to rely on is the same as the adjudicator took into account – I therefore

recognise the similarities in my findings to those of the adjudicator. But I will set them out again here to reflect how I come to my decision, on balance.

The bank has produced evidence to show that the card and PIN were despatched days apart, addressed correctly, and it seems unlikely to me also that both bits of post were intercepted – or indeed that they were lost and an opportunist fraudster was able to identify the lost post as what they were.

I have noted that the transactions occurred some distance from Mr R's home. But the bank is entitled to hold Mr R liable for the transactions if he either made them or authorised someone else to make them. And while the timescales involved would be tight, it is not impossible for Mr R to have received the card and PIN, when they would have been received, and managed to get them to the area of the country where the cash withdrawals were made, in time for them to be used.

Taking everything into account, on balance, I do not think it safe to conclude anything other than Mr R either made the transactions himself or allowed the card and PIN to be used by a known third party, thereby effectively authorising the transactions. I therefore agree with the adjudicator that the bank is entitled to hold Mr R liable for the transactions and make no award against, or direction to, Barclays.

my final decision

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

Ray Neighbour
ombudsman