

complaint

Miss H complains that Creation Financial Services Limited (“the bank”) won’t refund her for a disputed transaction on her card, and consequent charge, after her purse was stolen.

background

Miss H was on her way home from work when she realised her purse had been stolen. She cancelled her cards and reported the theft to the police.

It transpired that a £300 withdrawal was made from Miss H’s account. She complained to the bank asking it to refund her, but it declined on the basis that it did not consider on the evidence that there had been fraud on her account.

Miss H complained to this service, and our adjudicator ingathered and considered further evidence. On the basis of all of the evidence she was unable to find the bank responsible for the disputed transaction as the withdrawal had been made using the genuine card with chip and PIN, and given Miss H’s explanation as to how her PIN was stored, she was of the opinion that it was very unlikely that a third party had been able to work it out and use it correctly on a first attempt.

Miss H was unhappy with this decision and sought referral to 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 in agreement with the adjudicator that there is insufficient evidence that would allow me fairly to find the bank responsible for the disputed transaction. This is on the basis that in order for me to accept that the withdrawal was made fraudulently, and by a third party without Miss H’s authority, the fraudster would have to have identified the correct PIN from Miss H’s address book, taken from a number of addresses, and the four-digit number itself disguised within an 11-digit phone number, and then entered it correctly at first attempt. I am afraid that I believe the possibility of this happening is too remote to be a reasonable or fair conclusion for me to reach.

I’m sorry that my decision will come as a disappointment to Miss H, but in order for me to find the bank responsible I would need to be convinced that her explanation as to how her PIN was ascertained was correct, and that she herself did not authorise the transaction. I’m afraid on the basis of all of the evidence I’m unable to do so.

my final decision

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

Under the rules of the Financial Ombudsman Service, I am required to ask Miss H to accept or reject my decision 22 December 2014.

Ashley L B More
ombudsman