

## **complaint**

Mr K's complaint is that The Royal Bank of Scotland Plc ("RBS") won't refund him for unauthorised transactions made from his account to gambling websites.

## **background**

Mr K's complained to RBS that around £71,000 was taken from his account (largely in June 2015) and paid to gambling websites, and that he didn't make or authorise these payments. He's also unhappy that his account's been closed.

Mr K lives in a nursing home, and has difficulty with mobility. He's concerned that a large amount of money's been paid out of his account fraudulently, and that he won't be able to continue paying his accommodation fees until his complaint's concluded. He's told us he's in financial difficulties, and in poor health, and that he'd like the matter to be resolved as quickly as possible. He'd like a refund of the £71,000.

RBS explained to Mr K that on the evidence it had it was satisfied that the payments hadn't been made fraudulently. It said that in order to have made them somebody needed Mr K's account card and PIN, and his online banking security details. And that as Mr K hadn't reported his card as lost or stolen, but rather had admitted it was left out in his accommodation, that he was either negligent or had made the payments himself.

For these reasons, its decision was not to give him a refund.

Mr K disagreed. He maintained that the payments weren't authorised, and that he'd been defrauded before and had his money returned to him. He also said that on looking at his statements there were missing and duplicate payments.

The complaint came to our service, and our adjudicator looked into matters and gathered further evidence, including material from the gambling businesses themselves. This evidence allowed him to conclude that the payments from Mr K's account weren't likely to have been made fraudulently, and that what was more likely was that he'd made or authorised them himself.

He said this because the evidence showed that Mr K was a regular legitimate user of the same gambling websites, and that the disputed payments were interspersed among genuine payments to these sites. In addition, he noted that Mr K had made some very large winnings on his betting, and that it was these funds that were then used to continue betting, until there was nothing left.

He didn't think it was likely that a fraudster would spend Mr K's money, and then not take the winnings for themselves.

He explained all of this to Mr K. But he still didn't agree, and asked for an ombudsman to review his complaint.

## **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, I'm satisfied that our adjudicator's reached the right conclusion based on the evidence he looked at. So I'm not going to ask RBS to pay Mr K the money back.

I appreciate this decision will be very upsetting for Mr K. It's a lot of money, and I understand he's currently in financial difficulty. So I do have sympathy for his situation. However, I'm going to explain why I think this is the only fair outcome for his complaint.

My role is to look at all the evidence, and then reach a decision that takes this into account and is fair to both parties. That means I consider RBS's position as much as I do Mr K's. And what Mr K's asking for here is for RBS to use its own funds to pay him back money that he says was spent from his account fraudulently.

If I was persuaded that fraud had taken place, I'd be asking RBS to refund him. But I'm afraid I'm not.

The evidence isn't in Mr K's favour. At worst it indicates that he himself made the payments, and at best that he's been negligent with his card, PIN, and online security details. Either way, this means I can't say RBS should take responsibility for his loss.

One of the most compelling pieces of evidence is the large amount of money that was won from the betting activity. On one occasion, this was over £47,000. This money was initially paid into the account Mr K held with one of the gambling sites, after which £40,000 was transferred into his RBS account. I can't disagree with RBS, and our adjudicator, that a fraudster isn't likely to pay their victim their winnings from stolen money.

Ultimately, in the absence of persuasive evidence that somebody other than Mr K himself, or another person authorised by him, made these payments, I've no grounds to uphold his complaint.

### **my final decision**

My final decision is that I don't require The Royal Bank of Scotland Plc to take any further action to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 5 June 2017.

Ashley L B More  
**ombudsman**