

complaint

Mr E complains about a number of disputed transactions on his Post Office savings account - which is administered by Bank of Ireland (UK) Plc - that he says he didn't make or authorise.

background

In September 2009 Mr E opened an Instant Saver account with the Post Office, depositing a cheque for about £17,000. The money was the proceeds of an inheritance.

The Post Office sent Mr E a debit card and PIN for the account and in November 2009 the first withdrawal was made from a local cash machine. The withdrawals continued until March 2010, at which point there was a minimal balance remaining in the account.

In February 2011 Mr E wrote to the Post Office and asked for the account to be closed, with the remaining balance transferred to a nominated account. The Post Office carried out this instruction.

In September 2011 Mr E complained to the Post Office about the withdrawals that had been made in 2009/2010. Mr E said that he hadn't made them - and that he hadn't received the card, PIN or the statements the Post Office sent in December 2009, March 2010 or February 2011 when the account had been closed and balance transferred.

The Post Office investigated Mr E's complaint but didn't accept the withdrawals had been made as a result of fraud. In summary, this was because:

- The withdrawals had been made – in Mr E's local area – using the genuine card it had sent to Mr E in 2009 (at his correct address). The PIN had been entered correctly first time, every time.
- The pattern of withdrawals – over a period of four months – didn't fit the Post Office's expectation of fraudulent activity. The Post Office would have expected a fraudster to withdraw as much as possible, over the shortest time possible – which would have been 18 days, given the £1,000 per day withdrawal limit.
- Mr E hadn't queried the withdrawals until some 18 months after they had been made – and more than 7 months after the Post Office had closed the account (on his instruction) and sent him the remaining balance. This was despite being sent two statements during this period, and one when the account was closed.

Mr E disagreed with the Post Office's findings. He said that he hadn't received the card or PIN – and being a savings account, hadn't expected to. That was why he hadn't reported either as missing.

Mr E said that he hadn't received the statements sent to him, so hadn't been aware that the money was being withdrawn. Nor had he checked the balance when depositing a further £250 cheque in February 2010.

The adjudicator who investigated Mr E's complaint didn't recommend that it should be upheld. On the evidence available, he wasn't persuaded that a third party could have

intercepted both the card and the PIN – and later, the statements which, he was satisfied, had been sent to the correct address.

Further, the adjudicator wasn't satisfied that Mr E had provided a reasonable explanation for failing to flag the disputed withdrawals earlier. Even if he hadn't received the statements, he had still accessed the account after that. And he was aware how much had been in the account upon closure in February 2011.

Overall and on balance, the adjudicator thought it would be very difficult to ask the Post Office to refund the transactions on the grounds that Mr E had been a victim of fraud.

Mr E told the adjudicator that he didn't accept his findings, for much the same reasons as he had previously given. When the adjudicator wasn't prepared to change his opinion, Mr E asked for the complaint to be referred to an ombudsman for 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.

Here, the key issue I have to consider is whether the Post Office can hold Mr E liable for them. It is entitled to do this if Mr E either made them himself, or otherwise authorised someone else to make them.

The Post Office has confirmed that all the transactions were carried out using the genuine card, and correct PIN. That there were no 'incorrect attempts' when using the PIN, means that more likely than not, whoever carried out the withdrawals knew the exact digits the PIN contained.

Mr E has suggested that the card and PIN were intercepted by a third party. I can't entirely discount this possibility. But to find it a reasonable explanation for the disputed withdrawals I would need to be satisfied that a third party was able to do this – on different occasions, as the card and PIN were posted separately – *and* also intercept the statements sent by the Post Office on later dates.

I'm not persuaded that this is a reasonable explanation. Looking at the overall information provided in this case, I don't consider that the evidence points to Mr E's card and PIN having been intercepted and used by an unknown third party to make the withdrawals. And I note that Mr E doesn't suggest that his wife, who also lives at the property, was responsible either.

I have considered what Mr E has said about why he didn't either notice or report the disputed transactions earlier. But I'm afraid I haven't found Mr E's evidence persuasive and, I'm satisfied - on a balance of probabilities – the Post Office has provided sufficient evidence to demonstrate that it may hold Mr E liable for the withdrawals.

my final decision

I am sorry to disappoint Mr E but my final decision is that I do not uphold his complaint.

Katherine Wells
ombudsman