

complaint

Mr Q complains that Bank of Scotland plc refuses to refund a number of online payments made using his credit card, but without his knowledge or permission.

background

Mr Q opened an online gambling account in early 2012 and linked his Bank of Scotland credit card to it. One morning in early-May he tells us he logged onto the account and found that someone had used it without his knowledge or permission. They had added money to the account via his credit card. He had last used the account the day before.

The bank refused to refund the disputed payments. It says Mr Q had used the gambling account before, the payments were made via the same IP address that he had used and whoever made the payments had to pass the bank's and the website's security before being able to do so. However, the bank offered £75 compensation to Mr Q in recognition of the poor way it handled his initial enquiries.

Our adjudicator did not recommend the complaint should be upheld. She did not consider there was sufficient evidence to conclude that Mr Q had not made or authorised the disputed payments.

Mr Q did not accept the adjudicator's findings. He said:

- His login details for the website had been stored on his computer and could have been accessed by a hacker who may not have realised that he/she would not be able to access any winnings gained on the website.
- The bank failed to cancel his credit card immediately when he notified it about the disputed payments. This meant that further payments were allowed to go through while he was on the telephone reporting the fraud.

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 conclusion as the adjudicator, for much the same reasons.

I am strongly influenced by two facts about this case. The first is that Mr Q admits to having set up, and used, the account with the gaming website to which the disputed payments were made. The second is that a third party would have nothing to gain from illicitly using that account – even if they were able to get past the security procedures – because it is likely all the winnings would go back to Mr Q.

Mr Q has suggested the disputed payments were undertaken by an unknown third party who was somehow able to hack into his computer. But there is no persuasive evidence that anyone else has wrongfully used his online gaming account.

In the circumstances I am unable to safely conclude that the disputed transactions were made without Mr Q's authority.

I am satisfied the bank cancelled the card promptly after Mr Q telephoned to report the disputed payments. A couple of the later payments may have been made at about the same time Mr Q was on the phone to the bank but, overall, I am not persuaded it could or should have prevented them from going through.

The bank has offered £75 compensation to Mr Q in recognition of its failure to promptly issue a replacement credit card. I am satisfied this is a fair and reasonable award.

my final decision

My final decision is that Bank of Scotland plc should pay £75 to Mr Q, if it has not already done so.

Ruth Lewis
ombudsman