

## **complaint**

Mr G complains that Vanquis Bank Limited is holding him liable for some cash withdrawals made with his credit card which he insists were made by someone else.

## **background**

Mr G has a credit card account with Vanquis. In August 2015 he stopped using the card because he found another credit card with a more competitive interest rate. But he continued to keep the Vanquis card in his wallet.

On 2 December 2016 Mr G reported that the Vanquis card was missing, as it was no longer in his wallet. By then, 11 cash withdrawals had been made at various automated teller machines ("ATMs") over the previous 17 days, mostly in November. Each withdrawal was for £250, making a total of £2,750. His personal identification number ("PIN") had been entered each time. Mr G denied having anything to do with these withdrawals. He asked Vanquis for a refund. He said he couldn't have made the withdrawals because his work as a delivery driver meant that he had been nowhere near the relevant ATMs when they had happened.

Vanquis did not accept that the withdrawals had been made by a third party without Mr G's permission. It said that Mr G had told it that he had never told anyone his PIN, nor had he ever written it down, so there was no explanation of how someone else could have known it. It said that the pattern of spending using the card was not typical of what a thief would do, since the card hadn't been used every day. There had been no attempts to use the card after it had been cancelled, even though a thief wouldn't know it had been cancelled until he tried to use it. And Mr G hadn't sent Vanquis proof of his whereabouts at the time of the withdrawals.

Mr G complained to our Service. He said he didn't know when the card went missing. But he surmised that it may well have happened when he used another card to pay for goods in a supermarket in late 2016. He said he might have dropped his Vanquis card and not noticed it at the time, and someone might have noticed him enter his PIN when he paid. He uses the same PIN for all of his cards. So that would explain how someone else got his card and knew the PIN. Mr G also provided various documents to show where he had been on some of the days in question.

Our adjudicator did not uphold this complaint. He said that the supermarket purchase Mr G had referred to had happened in early October, over a month before the first cash withdrawal. He didn't think it was likely that a thief would wait for so long to use the card. And there was no explanation for how a thief could have learned the PIN or obtained the card later on. Since there did not appear to be any way that someone could have learned the PIN and used the card without Mr G's knowledge and permission, he didn't think he could ask Vanquis to refund the withdrawals.

Mr G asked for an ombudsman's decision. He wrote a detailed and heartfelt account of his personal and financial circumstances, in which he explained that the great stress this matter has caused him has affected his health and his relations with his family. And he is worried about how the Vanquis account will appear on his credit file, as it was defaulted in March 2017, and he intends to apply for a mortgage in a couple of years' time.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I would like to express my sympathy to Mr G. He has clearly been having a very difficult time. I accept that he is under immense stress, and that this has affected his health. So I am sorry if he feels that my decision only adds to his troubles. But I am unable to uphold this complaint, for broadly the same reasons as our adjudicator gave.

It would only be fair of me to require Vanquis to refund Mr G's money if I could persuasively explain to Vanquis how someone had been able to use Mr G's card without his permission and without him having told them his PIN. I find myself unable to do that. I will explain why.

Mr G has provided a number of proof of delivery notices to prove his movements on some of the days on which the withdrawals were made. He has also provided some text messages which were sent to and from a mobile phone (which I assume is his phone) to show the places he was sent to for his work. This evidence doesn't cover all of the relevant dates (and some of them are for October), but I have identified one withdrawal which was made at a time when Mr G was apparently in another place far away. I accept that he did not make that withdrawal. But that is not proof that whoever did make that withdrawal did so without his knowledge or consent, or that Mr G didn't tell them what his PIN was. So Mr G may still be held liable for that withdrawal.

I don't think it's likely that a thief obtained the card and the PIN when Mr G went to the supermarket in October 2016. If that had happened, then I would expect the thief to have started using the card immediately, not 38 days later. There is no evidence that Mr G entered his PIN on another card shortly before the Vanquis card was used. So I can't see how Mr G's PIN could have been compromised.

It also doesn't seem likely that a thief who is withdrawing someone else's money would start off by only doing so every other day. The withdrawals didn't start happening every day until nearly two weeks after the first one. And whoever was using the card knew when it had been cancelled, since there were no subsequent attempts to use it. This makes it less likely that the card was being used by a thief.

So I am not able to say that Vanquis was wrong to hold Mr G liable for the use of the card. It follows that Vanquis was entitled to default his account when he refused to pay the arrears.

## **my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 13 November 2017.

Richard Wood  
**ombudsman**