

Complaint

Ms V is unhappy that Lloyds Bank PLC didn't reimburse her after she told it she'd fallen victim to a scam.

Background

Ms V says that she fell victim to a rogue trader scam in October 2022. A contractor approached her and offered to carry out work on her driveway and garden. There's some uncertainty about what happened next. Ms V told us that the contractor explained what works, in his view, needed to be carried out. She says that she told him that she wasn't in a position to pay for the works. However, the contractor started work while nobody was home despite the fact that Ms V hadn't consented to it.

She tells us she felt intimidated and pressured and so agreed to make the payments at the contractor's request. She also says that the contractor pressured her into signing a written contract after the job had been started. Unfortunately, the standard of works that were completed were exceptionally poor, but by that point she'd already paid. Ms V says that she challenged the contractor over this but that he was abusive and threatening.

She told the bank that she'd fallen victim to a scam. However, she didn't say that the contractor had started work without her consent. She said that she'd agreed to the work being carried out to a particular specification, but was unhappy that the contractor had cut corners.

Lloyds didn't agree to reimburse her. It said that she hadn't fallen victim to a scam, but instead had a private civil dispute with the contractor. Ms V was unhappy with that and so she referred her complaint to this service. It was looked at by an Investigator who didn't uphold it. The Investigator agreed with the bank that this ought to be considered a civil dispute, rather than a scam. Ms V disagreed with the Investigator's view and so the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

However, that isn't the end of the story. Lloyds is a signatory to the Lending Standards Board's Contingent Reimbursement Model Code ("the CRM code"). This code requires firms to reimburse customers who have been the victim of authorised push payment ("APP") scams, like the one Ms V fell victim to, in all but a limited number of circumstances.

However, the Code doesn't apply to all transactions. In order for a payment to be covered by it, it needs to meet the Code's definition of an APP scam which is as follows:

a transfer of funds executed across Faster Payments where ...

(i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or

(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.

The Code also specifically excludes what it terms “*private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier.*”

This means that Lloyds isn’t required to reimburse her if the evidence doesn’t show that it’s more likely than not that she was the victim of fraud. To conclude that she was, I’d need to be persuaded that the contractor she hired had a settled intention to scam her. Obviously, I cannot know what was in the mind of the contractor at the time they agreed to carry out these repairs. As a result, I must infer what his intentions were based on what the available evidence tells me.

Ms V has given us a detailed description of the shortcomings of the work. But I’m mindful work was carried out and I’m not persuaded that the shortcomings Ms V has described are an unambiguous indication that the contractor intended to scam her. I accept that what she’s told us about the contractor’s behaviour might fairly be described as ‘sharp practice’ – i.e. behaviour that is technically within the law, but might be considered unethical.

In such circumstances, Ms V may have a civil claim for damages for breach of contract against the contractor, but it wouldn’t entitle her to have her losses reimbursed by the bank under the CRM Code. I accept that she has suffered a significant amount of stress here and has been let down badly. She appears to have had work carried out to a very low standard and this has left her needing to carry out remedial works. But disputes of this nature, in my view, belong in the civil, rather than criminal, courts.

I don’t say any of this to downplay or diminish what Ms V has been through. I have a great deal of sympathy for her and the position she’s found herself in. However, my role is limited to looking at the actions and inactions of the bank and I’m satisfied it didn’t do anything wrong in treating this as a civil dispute, rather than a scam.

Final decision

For the reasons I’ve set out above, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms V to accept or reject my decision before 3 May 2024.

James Kimmitt
Ombudsman