

The complaint

B complains that ClearBank Limited trading as Tide refused to refund a transaction it didn't recognise on its business account.

B is represented by Miss T, who owns B so I will refer to her throughout my decision.

What happened

Miss T noticed a payment of £7,412.12 on B's account on 8 February 2023. Miss T informed Tide via its online chat function. Miss T explained she did not authorise this transaction and Tide explained it would review the account.

As part of its review Tide asked Miss T for further information about her circumstances and account at the time. Following this it explained to Miss T that it would not be refunding the transaction as it hadn't found any evidence that the transaction was carried out fraudulently. In particular it said the transaction was verified on Miss T's phone with a one time passcode issued and used to set up a new payee. Tide did however accept Miss T had received poor service when she raised her concerns and offered £150 in recognition of the distress this caused her.

Miss T was dissatisfied with Tide's response and maintained that she did not receive any notification to authorise the transaction in question. Miss T referred her complaint to our service.

An investigator reviewed Miss T's complaint and found that Tide had acted reasonably. They explained that based on the available evidence they hadn't seen anything to show that the transaction was carried out by a third party.

Unhappy with the investigator's review, Miss T asked for her complaint to be reviewed by an ombudsman.

What I've decided – and why

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

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider good industry practice at the relevant time.

I'm aware that I've summarised this complaint briefly. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. This simply reflects the informal nature of our service.

Firstly, I am sorry to see Miss T has had cause for complaint. I don't underestimate the worry and anguish this situation has caused, and also the stress of dealing with the complaint

about it. Having looked at the complaint fully, my review of the evidence has led me to the same overall conclusions as the investigator previously set out and for much the same reasons. I will explain why.

The relevant law here is the Payment Services Regulations 2017, and broadly speaking Miss T is responsible for any payments that she has authorised (either by making them herself or allowing someone else to) and she isn't responsible for unauthorised payments. Essentially if Miss T made the disputed transaction herself or authorised it to be made on her behalf, it would not be fair to ask Tide to refund it.

There are occasions when people can be persuaded to make a payment, not realising that it's part of a scam. But that isn't what Miss T has told us happened. Miss T maintains that she was contacted by someone claiming to be a family member, but she was aware they weren't who they were claiming to be. However, Miss T says the unauthorised payment was made to an individual with the same name. Miss T also says she received a message from someone impersonating her sister. I can see Miss T's testimony about the events around the payment is conflicting, but Miss T hasn't elaborated further on what happened and maintains the payment was made without her knowledge and authorisation. I must therefore consider her complaint on this basis

Tide has said that the payment was authorised using the active device registered to the account – Miss T's mobile phone. Tide's records indicate a onetime passcode (OTP) was issued to Miss T's device, and the electronic data shows this code was typed into the Tide app. This would've allowed the new payee to be set up. The payment was then authenticated using Miss T's passcode or biometrics.

This means whoever authorised the payment would have had to have been able to obtain the device, access Miss T's Tide app and know her passcode. I don't think it's likely a third party would have been able to access her phone, make the transactions and return the phone without Miss T being aware of it. According to Tide's internal notes from when Miss T contacted them, no-one else had access to the device or knew the passcode at the time of the disputed transactions. I therefore don't see how the transaction could have been made by someone else as there is no point of compromise. Miss T also maintains she wasn't sent an OTP, but Tide has confirmed a new payee can only be set up with this code being entered.

Miss T has raised concerns about Tide's handling of the claim and says it should've acted faster to try and reclaim the funds. Looking at the timeline of events I can see Tide contacted the beneficiary bank on the same day Miss T reported the transaction. The beneficiary bank was only able to refund £215.73 as the remaining funds has been transferred out. It seems the funds were transferred out almost immediately from the beneficiary account, so I don't think Tide could've done anything else to help recover Miss T's funds.

I can see the service she received when she contacted Tide via the online chat was unclear and all of her queries weren't answered. This must've been very frustrating for Miss T and I think Tide should've provided a better service, especially given the distress the situation caused Miss T. Tide offered Miss T £150 for its failings here, and I think this is a fair offer of compensation and in keeping with the types of awards this service makes for service issues.

Miss T says she is worried about the security of her account with Tide as it was compromised. Tide will be under regulatory requirements set by the Financial Conduct Authority, to ensure its customer accounts are safeguarded and protected from the threat of fraud. The systems in place aren't able to prevent all instances of fraud, and it's important that customers also are aware of the steps they can take to help protect their accounts.

I do appreciate this has been an unsettling experience for Miss T and I would encourage her to contact Tide directly if she has any specific concerns about B's account and the security measures she currently has in place.

Overall, having considered everything, all of the available evidence points to it being more likely than not that Miss T provided authority for the transaction. I realise that this is not the outcome Miss T was hoping for, and she will be disappointed by the decision I've reached. As such, I cannot fairly and reasonably require Tide to take any further action in relation to this matter. I hope that it helps Miss T to know that someone impartial and independent has looked into her concerns.

My final decision

My final decision is that I don't uphold B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 14 March 2024.

Chandni Green
Ombudsman