

The complaint

Mr S is unhappy Monzo Bank Ltd (Monzo) refused to refund him for a transaction on his account he says he didn't make.

What happened

Mr S says he was not responsible for making a transaction on his account on 15 April 2023 for £896.35 (20,000 Mexican Peso).

Monzo say the transaction in question was made using Mr S's actual card and personal identification number (PIN) while he was abroad in Mexico – where the card was used. So, they think Mr S made or consented to the transactions himself.

Our investigator considered the complaint and decided not to uphold the complaint. She reached this outcome on the basis that the transaction was made using Mr S's card and PIN, and Mr S's evidence is that he had his card on him and he had not shared his PIN. So, she felt it was more likely Mr S made the transactions himself, or they were made by someone acting on his behalf.

Mr S didn't agree with this outcome, so the complaint has been passed to me for a final decision.

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.

Where there's a dispute about what happened, and the evidence is incomplete or contradictory, I must make my decision on the balance of probabilities – in other words, what I consider more likely to have happened in light of the available evidence.

The Payment Services Regulations primarily require banks to refund customers if they didn't make or authorise payments themselves. Certain other circumstances do apply – specifically whether the customer was grossly negligent in looking after their card and PIN – but nothing else that's had a marked impact on the decision I'm making here. So, when we look at whether a bank has acted fairly in rejecting someone's fraud complaint, one of the things we consider is whether the customer made the transactions themselves or allowed them to be made. If they did, then we generally wouldn't ask the bank to refund them.

Monzo have provided evidence that the transaction in dispute was made with Mr S's genuine card and authenticated using the correct PIN. This means whoever made the transactions needed to be in possession of Mr S's card and PIN.

Mr S has confirmed his card was in his possession during this time. He has told us that he used the card and PIN about 20 minutes prior to the disputed transaction at a restaurant in Mexico. He has said that no one else knows his PIN or has access to his card. If this is the case, then it's difficult to see how fraudsters were able to carry out the disputed transaction

using Mr S's genuine card and PIN.

The location information for Mr S's disputed transaction shows an address near Mexico City and Mr S was in another part of Mexico at the time. I've thought about what Mr S has said about the transaction location being too far from where he was for it to be possible that he made the transaction himself. But Monzo have explained that the location information will often refer to a company's head office or routing address for payments, not necessarily where the transaction took place. And since the transaction was made using Mr S's physical card, I think it's likely that the location address shown for the transaction is another address linked to the business to which the payment was made.

I've also considered what Mr S has said about the possibility that a fraudster may have cloned his card when he used it in a restaurant. But we are yet to see evidence that it is possible to clone a debit/credit card chip. And, as this was now some time ago, Mr S can't remember exactly what happened in the restaurant and hasn't given us any plausible explanation about how his PIN may have been compromised. So, I am not persuaded that this transaction was made by someone else, and so it follows that I think it's more likely this transaction was authorised and consented to by Mr S or someone acting on his behalf.

Given everything Mr S has said, this outcome is likely to come as a disappointment to him. I know that Mr S is unhappy that he feels he's been called a liar – and this is not my intention in this decision. I have considered the evidence in front of me, and without being present at the time, I've had to decide what is more likely to have happened. Considering everything I've outlined above, I'm not upholding this complaint so Monzo do not have to do anything further.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 2 January 2024.

Sienna Mahboobani
Ombudsman