

## **The complaint**

Mrs B complains that National Westminster Bank Plc will not refund cash withdrawals she says she did not make.

Mrs B is represented in this complaint by her daughter Ms P.

## **What happened**

Between 4 July 2021 and 8 April 2022 a series of withdrawals were made from Mrs B's NatWest account. Ms P says that Mrs B did not authorise any of these payments

Ms P has third party access to Mrs B's account, to help her manage her money. In early 2022 Ms P says she elected to begin receiving notifications about Mrs B's account to her phone. Subsequently, she received notification of a cash withdrawal which she did not think Mrs B could have made. Mrs B confirmed she had not made this withdrawal, and that her debit card was still safely locked away at her home. Mrs B went on to identify many other withdrawals which she said she had not made. So Ms P and Mrs B flagged the disputed withdrawals as unauthorised with NatWest.

NatWest reviewed the disputed withdrawals, but did not agree that there was evidence to show they had not been authorised, so it declined to refund them to Mrs B.

Mrs B maintains that she did not make these withdrawals. Ms P has explained that Mrs B's debit card was always kept safe and that nobody else had access to it. She believes that the card may have been cloned when Mrs B used it at an ATM. Ms P reported what had happened to the police, but they did not locate any CCTV evidence to show who had withdrawn the funds and did not then appear to have pursued the case any further.

Our Investigator looked into what had happened. She did not think it was likely that Mrs B's card had been cloned, and was satisfied that the withdrawals had been made with Mrs B's legitimate card and PIN. So she did not feel there was evidence to suggest that the withdrawals had not been authorised by Mrs B, and therefore did not recommend that NatWest refund these withdrawals to Mrs B.

Ms P maintains that Mrs B's card could have been cloned, and that she did not make the withdrawals herself. So as no agreement could be reached this case has been passed to me for a 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.

Having done so I've reached the same conclusions as our Investigator, and for the same reasons.

Whether a payment transaction has been authorised or not is important because account holders will usually be liable for payments they've authorised and, generally speaking, banks will be liable for unauthorised payments. If Mrs B made the disputed withdrawals herself or authorised them to be made on her behalf, it would not be fair to ask NatWest to refund them.

I can't say with certainty who carried out the withdrawals. But the key issue I have to consider here is whether NatWest can reasonably hold Mrs B responsible for them because there is adequate evidence to suggest she authorised them herself or allowed them to be made on her behalf. And with the evidence I've seen, I believe NatWest can.

I appreciate that Ms P and Mrs B think the card may have been cloned and then used by a third party to make the withdrawals. For some background, cloning involves copying the account information contained on the magnetic strip on the back of a card and transferring it to a (clone) card. That clone is then used by a fraudster to make purchases – usually over the phone or internet as they do not require the PIN, which is in the chip embedded in the original card. In my experience, there is no real consensus on whether cloning the *chip* on a debit card is possible, let alone widespread. Ms P has referred to an article about a device that was found on an ATM Mrs B regularly uses, but that does not appear to have been the kind of device that might theoretically be used to clone a card. I consider it to be very unlikely that a successful cloning of the chip on Mrs B's card – which is what would be needed for a third party to make cash withdrawals – is the explanation for what happened in Mrs B's case.

NatWest's records show that when the withdrawals were made the embedded card chip was read and the correct PIN entered. So I am satisfied whoever made the withdrawals had Mrs B's legitimate card and knew her PIN. Mrs B is adamant that nobody else had access to the card and that her PIN was not written down anywhere. So it does not appear that anybody other than Mrs B, or someone acting with her permission, could have used her card to withdraw these funds.

I also note that the withdrawals were made over an extended period of time and that Mrs B was using her card normally in between the disputed withdrawals. So an unauthorised third party would have had to repeatedly take Mrs B's card and then return it without her noticing, and with what Ms P and Mrs B have told us about how the card was stored, that does not seem to be likely. There are also other indications that there was not third party involvement in these withdrawals. For example, the pattern of the withdrawals is not consistent with what we would expect from a fraudster – the withdrawals took place over an extended period of time, with long gaps between them, and took place at an ATM near to where Mrs B lived. There was also no attempt to use the card details to make purchases online or over the phone as we might expect, and which would have allowed a fraudster to maximise their financial gain.

I also understand that Mrs B's online banking was accessed during the period of the disputed withdrawals. Ms P says this was by her, either checking her own accounts or making payments on behalf of her mother, but that she would not have been aware of what the specific balance of the account should be and that she did not look at Mrs B's statements so would not have seen the withdrawals. Ms P also says that Mrs B was no longer receiving paper statements as NatWest had cancelled that facility, and so was not aware of the transactions taking place on her account. But even with this in mind, Mrs B still had a responsibility to monitor her account, and she had access to do so via online banking on Ms P's phone.

And, in any case, I'm satisfied from the evidence I've seen that, on balance, it's more likely that Mrs B's genuine card was used to make the withdrawals from her account and that she

either made those withdrawals herself or allowed them to be made. So I don't think that Mrs B not receiving statements affects my decision on this complaint.

Given that I do not think these withdrawals were unauthorised, it follows that NatWest is entitled to hold Mrs B liable for them, and so I won't be asking NatWest to refund any of the withdrawals.

I know this will be very disappointing for Mrs B, but I hope she will understand the reasons for my decision.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 14 September 2023.

Sophie Mitchell  
**Ombudsman**