

The complaint

Mr L complains that The Royal Bank of Scotland Plc ("RBS") won't refund four payments for over £9,000 made from his credit card that he says he didn't authorise.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. In brief summary, Mr L received a call from RBS in February 2023 with regards to recent activity on his credit card. It transpired that four recent transactions had been made:

- 24/2/23 - £2,030 in Selfridges, Manchester
- 24/2/23 - £5,180 in Selfridges, Manchester
- 25/2/23 - £2,348.30 in Argos, Glasgow
- 27/2/23 - £247 in Nike, Glasgow

RBS asked Mr L about the transactions and whether the card was in his possession. He said he normally kept it in a drawer at home, but later noticed it was missing. He then disputed the transactions with RBS saying that he hadn't authorised them and that the last payment he had made was for £40 at a petrol station.

RBS said it wouldn't refund the payments as they'd been authorised by chip and PIN, so it thought the transactions were either carried out by Mr L, or that he'd given his card and PIN to someone else. Unhappy with this, Mr L referred the matter to our service.

Our investigator didn't uphold Mr L's complaint. He didn't think there was a plausible explanation for how an unauthorised third party would have come into possession of Mr L's physical credit card and PIN, so he didn't think RBS had acted unreasonably by failing to refund the payments. Mr L disagreed, so the matter has been escalated to me to determine.

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 agree with the conclusions reached by the investigator for the following reasons:

- Having considered the facts before me as well as the relevant law, it seems to me that the key question I need to determine here is whether it is more likely than not that Mr L authorised the transactions. In other words, I need to decide whether Mr L made the transactions himself or likely gave someone else permission to do so. This is important because a customer will usually be liable for payments they've authorised and, generally speaking, a bank will be liable for any unauthorised payments.

- In this instance, the credit card transactions were made in person via chip and PIN, and I appreciate Mr L says that he did not authorise these transactions. But having considered the evidence, I'm not persuaded there's enough to suggest that they were likely made by an unauthorised third party. I'll explain why.
- Mr L says he doesn't normally carry his credit card with him. He says he normally keeps it in a drawer at home, and that he only realised it had gone missing after he said he spoke with RBS. But he hasn't been able to provide a plausible explanation as to how an unauthorised third party would have come into possession of the credit card if it was usually kept at his home, nor how they would've obtained his PIN. Mr L thinks that his card may have been cloned following an earlier bank impersonation scam he fell victim to. But that still doesn't explain how someone else would've known his PIN in order to make the transactions with a cloned card.
- Mr L has also suggested that the scammer may have been able to get his PIN from his phone when he gave remote access as part of an investment scam he'd also fallen victim to. However, this doesn't seem to be plausible either. As part of the investment scam, Mr L said he downloaded remote access software to his desktop computer, so it doesn't seem possible that a scammer would have been able to access his PIN through his mobile banking app. And even if the PIN was obtained this way, which seems unlikely, it still doesn't explain how the scammer came to be in possession of the physical credit card itself that's normally kept in Mr L's drawer at home.
- Mr L says it also wouldn't have been possible for him to get from Manchester to Glasgow to make the transactions in both locations. And if they'd been made within an hour or two on the same day, I might be inclined to agree, but they weren't. The transactions in Manchester took place on 24 February 2023. The transactions in Glasgow took place from the following day onwards, so it doesn't seem completely unrealistic to think that somebody could travel between these two locations in this time.
- So, having considered all the evidence, the only plausible conclusion is that either Mr L made the payments himself, or he gave his credit card and PIN to somebody else, thereby giving his consent and authority for payments to be made on his behalf. I appreciate that Mr L disputes this, but I'm afraid there is no other more plausible explanation for how the payments could have otherwise been made in these circumstances.

As a result, I don't consider RBS has acted unfairly by declining to refund the disputed transactions. I appreciate this will likely come as a disappointment to Mr L, and I'm sorry to hear about the difficult financial position he is in, but I won't be asking RBS to take any further action.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 7 February 2024.

Jack Ferris
Ombudsman