

The complaint

Mr R complains that TSB Bank plc won't refund a payment he says he didn't make from his account.

What happened

Mr R disputes a faster payment of £9,512 made from his account using mobile banking. He says he was logged in at the time to check the balance but didn't authorise any payment. He is unhappy that TSB won't make a refund.

TSB said that there was no evidence to support that his account details had been compromised. The payment was made with a device that had been used on the account since 2020 for genuine payments. And the log in was made using his personal information. There was no evidence of remote access to his phone at the time. And the IP address recorded matched previous log ins.

Our investigator didn't recommend that the complaint be upheld. She said that it was unlikely that someone else was able to access Mr R's account and device at the same time and make a payment without him knowing. The IP address was the same for the logins that day. And Mr R had said that only he knows the memorable password on the account. It was up to TSB to set what the security requirements were for a payment. She noted that Mr R was unhappy that the beneficiary account wasn't blocked but she was satisfied that appropriate steps had been taken to investigate his claim. Mr R had provided information about a 'package installer' being launched on his device at 08:16 online and said he had clicked on a 'pop up' box. Our investigator had asked Mr R for any information to support that his phone had been taken over or accessed remotely.

Mr R didn't agree. He is represented in this complaint. His representative said that they hadn't had the phone examined because they had moved to a new address with a new wi-fi connection. And so, this wouldn't reveal anything as this payment had been connected to the network used and the links. At one time they'd been told the memorable password used was eight characters, but Mr R said that his had been 11. Mr R has insisted that he didn't set up any new recipient. He used the memorable password to log on but not to authorise any payment. He is looking for justice.

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.

I need to take into account the Payment Services Regulations 2017 in considering this complaint. These state that a payment can only be authorised if it was consented to. So, it's not enough for it to be authenticated, say with security details. And if it wasn't authorised Mr R wouldn't generally be responsible for it.

So, I will be thinking about the following areas in looking at this complaint:

- What is the most likely explanation of what happened to the security information used for the payment?
- Did Mr R authorise the payment on the account?

I'm satisfied from the audit logs provided by TSB that the payment was made after there was a log into Mr R's account online using his device and his memorable information. And so that the payment was authenticated. The issue is whether he consented to it.

His version of events about his log ins ties into the audit provided by TSB. He explained that he had logged in twice: once to check his balance and then again as he wanted to look at a payment. There are log ins at 08:15 and 08:16 and in the latter one the payment was made. He says he had the device with him. TSB has no information to indicate that his phone had been taken over based on its technical analysis. And as I say there is no other access to his account shown or different IP address.

I know he says he clicked on a 'package installer' at 08:16 and can see that he'd already mentioned that to TSB based on its case notes. He's not provided any information about what that did at the time or any professional analysis of his phone. He's had a fair opportunity to do so, and it would be up to him to help substantiate that with any technical evidence and for example to provide something that we'd be able to ask TSB to look at further. Having looked at the limited screenshot entry he refers to I don't have a reasonable basis to make a finding about it. I don't have anything to show that this was malicious or somehow enabled the payment to be made in the way he says must have happened. Or alternatively that this wasn't say referring to a genuine update link for android phones

There is no further log on attempt shown on the system until he logged on with a different device on 2 October 2022. He said he could no longer log on with his old device. Again, I can see the related enrolment of that new device and his log in on that day. He then reported what had happened.

I appreciate the size of the payment involved and Mr R's insistence he didn't authorise it. I won't be able to say *exactly* what happened and I'm thinking about what is *most likely*. And I'm afraid I think on the information available that it was reasonable for TSB to hold him responsible for this payment and not do anything further. I know Mr R will be very disappointed at my conclusion given what is at stake for him. If he doesn't accept my decision he remains free to pursue this matter in court subject to any relevant time limits.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 13 September 2023.

Michael Crewe
Ombudsman