

The complaint

Mr S complains Cynergy Bank Limited won't reimburse transactions he didn't make or otherwise authorise.

The full details of this complaint are known to both parties, so I won't repeat them again here. Instead, I'll recap the key points and focus on giving reasons for my decision:

- In April 2021, Mr S received a call from someone pretending to be a telecoms provider. He was a customer of this provider. The caller informed him his IP had been compromised and someone from within the bank was leaking details which was being investigated. He says he was shown information that his IP address was being used abroad and was told that if he didn't take action scammers could access his computer.
- The scammers told Mr S they'd ordered him a new modem which would arrive in a few days. They asked him to log onto his online banking which he did. He says they also took over his computer to create a dummy account to help with their investigations. Mr S says information flashed up on screen, but he didn't know payments were being made at the time. He was then told to turn his computer off which he did, and they told him not to use his mobile either. It wasn't until a few days later, when the modem didn't arrive and when speaking with a family member, that he checked his account and realised a number of payments had actually been made from his accounts.
- Mr S complained to Cynergy who didn't uphold his complaint as he hadn't kept his information safe. But it did offer £20,000 as a goodwill gesture. It had also managed to recover £898.80, which meant Mr S's total loss was reduced £81,211.20. Our investigator upheld the complaint in full, she wasn't persuaded Mr S made or otherwise consented to the payments and she didn't find he'd acted with gross negligence.
- Cynergy has asked for the matter to be referred to an ombudsman but hasn't provided any further arguments for consideration.

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:

- In line with the Payment Services Regulations 2017 (PSRs), Mr S isn't liable for payments he didn't authorise, unless he failed with gross negligence or intent to comply with the terms of the accounts or keep his personalised security details safe.
- Cynergy accepts Mr S has fallen victim to a telecom impersonation scam and so appears to agree he didn't complete the agreed steps to make the payments such that he could be considered to have consented to them. For the sake of completeness, although I accept Mr S may have passed on the codes required, I'm not aware he input any payment information or account destination details that would

have been required to complete the transactions. I therefore conclude Mr S didn't authorise the payments or consent to someone else making them either. It follows I find the payments were unauthorised.

- I don't find that Mr S failed with intent to keep his security details safe. I accept he logged into his online banking and must have shared the codes required for payments to be made. But Mr S was following instructions he thought were necessary to keep his accounts and computer safe.
- I also don't find he failed with gross negligence. Mr S believed he was speaking with someone from a telecom company he is a customer of. His wife had recently passed away with her funeral having only taken place a couple of days before. I think it fair to say Mr S likely had other things on his mind, and probably wasn't at his most attentive. I don't think he would have found a call from a business he is a customer of that unusual.
- I accept Mr S gave the caller access to his computer and that he logged onto his online banking. I also accept it's likely that he passed on any passcodes needed in order for the payments to be completed (although I understand not all of them required the codes). But I don't think this means Mr S seriously disregarded an obvious risk and, therefore, failed with gross negligence.
- Mr S has said he isn't that experienced with technology and did what he was told to stop scammers accessing his computer; and it all sounded plausible to him. He has explained he doesn't know what an IP address is or what it's for. I find this reasonable and plausible, a lot of people don't even if they own and use technology regularly. And although this happened over a couple of days, given the time scales Mr S was given for delivery of the new modem I don't think Mr S ought to have thought anything unusual about that either. Overall, I can see how Mr S was fooled into believing the steps he took were necessary, and I think a lot of people would have been fooled into doing the same, or something similar.
- I have considered that Cynergy says it sent its customers a text in March 2021, warning them of broadband impersonators and advising not to share account information or security details. I don't know if Mr S was one of those customers, whether he received it or read it. But even if he had, given the events which occurred between and that about a month had passed since the text, I don't think this is something that Mr S would have remembered or would have had at the forefront of his mind when called.
- Overall, I don't think Mr S's actions fell so far below what a reasonable person would have done that it amounts to gross negligence. So I conclude Mr S isn't liable for the transactions in dispute and Cynergy needs to put things right – by refunding the losses from the unauthorised transactions alongside interest to compensate him for the time he has been without those funds.

My final decision

For the reasons given, my final decision is that I uphold this complaint. I require Cynergy Bank Limited to:

- Reimburse Mr S £81,211.20; and
- Add 8% simple interest per year from the date of loss to the date of settlement for the proportion from Mr S's current account; and
- Add interest at the savings rate from the date of loss to the date of settlement for proportion from Mr S's savings account; less
- Any lawfully deductible tax on the interest.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or

reject my decision before 2 June 2022.

Claire Hopkins
Ombudsman