

## **The complaint**

Mr W has complained PayPal (Europe) Sarl et Cie, SCA won't refund transactions he didn't authorise.

## **What happened**

In January 2022 Mr W noticed transactions on his PayPal account that he'd not made. This included a foreign payment which raised his suspicions. He complained to PayPal but they believed he'd made the transactions. Mr W brought his complaint to the ombudsman service.

Our investigator reviewed the evidence which included PayPal saying the IP address used matched Mr W's. Overall she felt that Mr W must have made the transactions as she couldn't see any point of compromise.

Mr W remained unhappy and has asked an ombudsman to review his complaint.

I completed a provisional decision on 2 November 2022. I believed the evidence wasn't sufficient to show Mr W had authorised the four disputed transactions. I asked PayPal to refund Mr W along with 8% simple interest.

Mr W accepted this outcome. PayPal didn't. They believed as their business operated worldwide, the transaction I believed was unusual wasn't at all. They also confirmed emails had been sent to Mr W at the time of these transactions and at least one of these had been opened.

I now have all I need to complete my 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.

Having done so, I've reached the same conclusion as I did in my provisional decision. I'll explain why and respond to points PayPal raised where applicable.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mr W's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves. Other factors do apply but nothing else specific in Mr W's case.

I should also mention PayPal, in their response to the provisional decision, state there is no evidence to support Mr W's view the transactions are unauthorised. I disagree as there is evidence showing a phone number change for which there's been no satisfactory explanation. More importantly the PSRs require the payment services provider to provide evidence that the payment service user authorised the transactions rather than the payment service user to show they didn't.

To help me decide what happened, I've looked at the evidence of the transactions, as well as what PayPal and Mr W have told us, including PayPal's response to the provisional decision.

Mr W has disputed four transactions made on three different dates in December 2021. There were two other transactions – where the amounts were refunded – which Mr W also confirmed weren't his.

Two of the disputed transactions were personal payments (although one was refunded). One payment was made in Russian roubles which I'd have expected to act immediately as a red flag for disputed transactions. This doesn't mean alone that Mr W didn't make the payment, just that this should be considered as highly unusual.

I accept PayPal's comments that they operate worldwide but some transactions do look more unusual than others and I believe this one met that description.

PayPal has said that one of the retailers involved was a retailer Mr W has used before. He doesn't dispute this. But I'm not sure that is sufficient evidence as use of this retailer by any customer wouldn't be considered unusual. I would also add that unfortunately this retailer has historically been used by fraudsters for their transactions.

I also note the evidence shows goods ordered at the time of these disputed transactions were delivered elsewhere, nowhere near Mr W's location. PayPal believes the evidence shows this to be a central distribution centre. I don't dispute that but I'd still expect to see clear evidence of goods delivered to Mr W's address in this case.

The other transaction was a purchase made through an online marketplace. The information PayPal gave us confirmed goods were delivered to Mr W's home address, but Mr W is insistent that nothing was delivered to him.

Although our investigator said the IP address used for the disputed transactions were all the same and matched Mr W's, I'm not sure this is the case. The two retailer payments were made using different IP addresses and I've seen nothing which shows this matches an address of Mr W's. PayPal has shown a consistent visitor ID being used, but this wouldn't be unexpected if someone had been able to access Mr W's account.

I've looked at the disputed transactions. It would appear to me that these would all match potential fraudulent behaviour. I do wonder though why an unknown third party would target and use Mr W's account for such limited use.

Mr W's evidence throughout has been consistent. I don't understand why someone who's had a PayPal account for many years would suddenly dispute transactions they'd made themselves. This doesn't seem to match with what I know of Mr W.

It's not my role to decide how someone else could have got hold of Mr W's PayPal account details and use these fraudulently – particularly when I see Mr W's email address remained on the account. Mr W has told us that he only received emails about the transactions on 28 December and he's shared his evidence on this with us.

PayPal has shown emails were sent for all transactions and that Mr W potentially opened an email on 16 December. This related to a transaction that was subsequently cancelled so I don't believe this evidence as convincing as PayPal may hope.

I'm aware what Mr W told us about a new mobile phone being set up on his account prior to the disputed transactions. At the time this happened, Mr W was away so I agree it's unlikely he did this. PayPal has told us this was done using the correct account security but this alone doesn't mean this was done by Mr W. And I see no logic for him having done this.

There are obviously inconsistencies here which I don't believe PayPal has explained. I am satisfied that there are scenarios how Mr W's PayPal account could have been compromised.

On balance I'm not satisfied there's sufficient evidence to show Mr W authorised these transactions.

### **Putting things right**

As I don't believe Mr W authorised the transactions, PayPal must refund Mr W and add 8% simple interest to those amounts.

### **My final decision**

For the reasons I've given, my final decision is to instruct PayPal (Europe) Sarl et Cie, SCA to:

- Refund Mr W for the four disputed transactions in December 2021; and
- Add 8% simple interest to those amounts from the dates they debited his account to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 14 December 2022.

Sandra Quinn  
**Ombudsman**