

The complaint

Miss W has complained that Revolut Ltd unreasonably refused to refund several disputed transactions from her bank account which she didn't authorise or recognise.

What happened

Miss W was working abroad and on 26 November 2022 her purse with her Revolut card in it and her phone were stolen. Consequently, on 27 November five transactions were paid out of her account which Miss W said she didn't recognise or authorise. They amounted to £3,750. Previous to these transactions, Miss W said the thieves tried to use her Revolut card for a purchase and then at an ATM and Revolut stopped those transactions because they were suspicious and froze her card, but it didn't freeze her account.

Revolut said the appropriate authentication was done for all these transactions and that as consequently it couldn't see any point of compromise it would not refund these disputed transactions. It also reminded Miss W of her duty to keep all login details and passcodes secure. Miss W said her passcode to her card and the Revolut app are the same as this is what the Revolut system requires.

Miss W also said she did keep all login details and passcodes secure and hadn't shared them with anyone. She also said that her residency permit was in the same purse which caused her considerable trouble and upset too which she had to get renewed.

So, she brought her complaint to us. The investigator didn't think Revolut did anything wrong. Miss W disagreed and so her complaint was passed to me to decide.

I issued a provisional decision on 13 September, and I said the following:

'Miss W indicated the theft occurred when someone stole her phone and purse from her handbag. She said it was done by an attack. Based on the police report provided, along with other evidence such as evidence she replaced her phone and residency permit, I'm satisfied her story is genuine. Understandably for Miss W this must have been a very traumatic event. Obviously, there is no evidence as to why this attack occurred but it could be that someone noted her using her phone to access her Revolut app or saw her do some transactions with her Revolut card and had effectively shoulder surfed her passcodes and therefore stole the phone and the purse. It could be that her phone was also unlocked at that time too. We won't ever know that, but I consider it's a possibility.

Revolut without any notification from Miss W at this stage stopped a purchase transaction with her card and an attempted ATM withdrawal with her card. So obviously Revolut's systems showed both transactions were possibly fraudulent and froze her card. It didn't however freeze her account fully. Miss W wasn't able to let Revolut know of the theft of her phone and purse until the next day given her phone was stolen so she had to wait until she could log on with her work's iPad which is registered on her Revolut account.

Miss W said when she set up her Revolut account she was under the impression the passcodes or PIN's have to be the same for her card and the app. Revolut confirmed this is how it's initially set up, but the customer can change both if they wish. Miss W confirmed she wasn't unaware of this.

No passcodes were written down anywhere for the thieves to access according to Miss W but if she had been shoulder surfed that wouldn't make difference. It's clear the thieves accessed her phone and her app and carried out the five disputed transactions over a short period of time on 27 November 2022 and were able to deal with all the required confirmations that Revolut's system requires in order to do transactions. And once her account was empty there were no further attempts to make any further transactions. The fact that Face ID was required to access the app doesn't make a lot of difference in my view as once someone can access the phone it's possible to change the biometrics depending on the settings.

Based on the evidence available, and what Miss W has told us, I don't see that she authorised the transactions herself. That means under the relevant regulations, the Payments Services Regulations (PSRs) Revolut can only hold her liable in limited circumstances – such as if she has failed in her obligations to keep her security details safe either intentionally, or with gross negligence.

I haven't seen any suggestion that Miss W intentionally gave her account or phone login information to her attackers. And I don't consider there is enough evidence to show Miss W was grossly negligent. Gross negligence is a very high bar for a bank to clear and I don't consider having one's phone and card stolen in an attack with no passcodes available reaches that high bar. Despite the fact it's clear from the evidence that these payments were made by Miss W's phone access to her app given the card was by then frozen.

Therefore, I consider Revolut should refund these disputed transactions with interest from the date they were made.

The thieves stole all of Miss W's savings plus she had to get her work permit renewed. And obviously the entire incident, given it was an attack was grossly distressing for Miss W. As against that of course Revolut didn't cause the theft. But I consider it could have done more to help Miss W and indeed its systems could have also flagged up the unusual transactions at the time just like they did for the usage of her Revolut card. Therefore, I continue Revolut should pay Miss W compensation. I consider it should pay her £250 compensation for the distress and upset it caused her which is in line with other awards I have made in similar circumstances.'

Miss W accepted my provisional decision. Revolut didn't agree it could have done anything more. It acknowledged biometric information can fail from time to time but felt as the account was accessed via a fingerprint didn't suggest the account was compromised, given there were no failed attempts recorded. Nonetheless it understood the payment could be considered as unauthorised, but it didn't think its system had failed in this instance.

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 again, I remain it's fair and reasonable to uphold this complaint. I appreciate Revolut's thoughts on the matter. However, given Miss W's phone and card were

stolen in an attack, plus that she might have been shoulder surfed plus that her phone might not have been locked at the time, I consider it remains fair and reasonable to not hold Miss W to be grossly negligent in this case. It also remains fair to conclude that Miss W didn't authorise these transactions herself and Revolut also agrees the transactions could be considered as authorised.

So consequently, it remains my view that this complaint should be upheld.

My final decision

So, for these reasons it's my final decision that I'm upholding this complaint.

I now require Revolut Ltd to do the following:

- Refund Miss W the sum of £3,750, adding interest of 8% simple per year from the date the transactions occurred to the date it refunds her. If income tax is to be deducted from the interest, appropriate documentation should be provided to Miss W for HMRC purposes.
- Pay Miss W the sum of £250 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 2 November 2023.

Rona Doyle
Ombudsman