

## The complaint

Miss D is unhappy that Revolut Ltd won't refund a payment she didn't make.

## What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving the reasons for my 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.

In September 2023, I issued a provisional decision explaining why I intended to uphold Miss D's complaint. Both sides accepted what I said, so I see no reason to depart from my decision. For completeness, I've explained my reasoning again below.

- Revolut declined to refund this disputed payment because a chargeback claim was unlikely to succeed, given that it was made by Apple Pay. I accept this, but it's not the only relevant consideration.
- I must also consider the Payment Services Regulations 2017. The starting position under these is that Miss D isn't liable for a payment she didn't authorise.
- Revolut hasn't disputed this concerns an unauthorised payment. I'd agree that, in line with the PSRs, that's how it would be regarded. Because it wasn't Miss D that used Apple Pay to make the payment in store – instead she was tricked into sharing information that allowed fraudsters to set up Apple Pay on their own device.
- I've gone on to consider whether, in line with the PSRs, Revolut has shown there's a reason Miss D shouldn't be refunded. It's not explicitly stated a reason. But given the allegations Miss D shared virtual card details and a one-time code that, in part, led to the fraud taking place, I have nonetheless considered whether she failed with gross negligence to comply with the terms of the account and keep her personalised security details safe.
- Miss D hasn't consistently recalled what information she shared. But, given she accepted sharing the virtual card details and the code when she first contacted Revolut, and how that was in the immediate aftermath of the scam, I think it's likely she did. Indeed, there's no other plausible explanation for how the payment could've been made if she didn't.
- But, having considered the circumstances of the scam, I'm not persuaded that means she failed with gross negligence – or, in other words, that she acted with *very significant* carelessness; *seriously* disregarded an *obvious* risk; or acted *so far below* what a reasonable person would've done.

- In saying that, I've reflected on Miss D's trust that she was speaking with Revolut – the call appeared to come from Revolut's number and they'd several pieces of her personal and sensitive account information. In the moment, I can see how she was tricked into thinking that only Revolut would've known these things.
- Miss D recalled she was told someone had attempted fraud on her account – so they would cancel her card and she'd need to activate a new virtual one. While I can't be certain how she came to share her virtual card details given her vague memory, I think it makes sense this was how they tricked her. Indeed, it fits with other similar scams our service has seen. And, reflecting on Miss D's trust in the caller and panic at her money being at risk, I can understand why this seemed like a plausible request and why she followed their instructions.
- I also can't say for certain why Miss D shared the one-time code with the caller. But Miss D has at least consistently said she believed they were moving her money internally to keep it safe. It follows that I think it's more likely than not that she shared it thinking it would ultimately keep her money safe.
- I recognise that the message said: *"Revolut verification code for Apple Pay: [XXXXXX]. Never share it with anyone, ever."*
- I don't know whether Miss D properly read this message. I'm mindful that, given the pressure fraudsters typically apply in these types of scams, it's common victims don't think they have the time to take it in and instead, focus on the number requested.
- But, even if Miss D saw the warning, I can understand how it didn't ring alarm bells that the caller wasn't who they purported to be. Indeed, I can imagine how receiving the message when she'd been told to expect it likely reassured her she was speaking with Revolut. And given this trust, I can understand how she simply followed their instructions, having been sucked into believing she'd lose money if she didn't act. Afterall, it's possible to see how someone could think 'anyone' wouldn't include the sender of the message.
- This isn't to say Miss D acted perfectly reasonably. Of course, it's possible to call her actions careless. But, in the convincing and panic-inducing circumstances of this scam, I've not been persuaded that Revolut has shown that Miss D failed with gross negligence.
- It follows that, in line with the PSRs, I don't consider Miss D can be fairly held liable for this unauthorised payment and Revolut need to put things right – by refunding her losses from the payment alongside 8% simple interest per year to compensate her for the time she's been out of pocket.

## **My final decision**

For the reasons I've explained, I uphold Miss D's complaint. Revolut Ltd must:

- Pay Miss D the total of the unauthorised payment, less any amount recovered or refunded – I understand this to be £4,420.00.
- Pay 8% simple interest per year on this amount, from the date of the unauthorised payment to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept

or reject my decision before 22 November 2023.

Emma Szkolar  
**Ombudsman**