

The complaint

Miss B complained about payments she made from her account with National Westminster Bank Plc (NatWest). She said she made payments to her partner, but he didn't receive the money. Miss B believes NatWest made an error and wants a refund.

What happened

On 5 May 2023, Miss B made a £200 payment from her NatWest account, using the app on her mobile. Miss B believed that she was sending this to her partner's account. As it didn't reach his account, she contacted NatWest the same day.

NatWest tried to retrieve the money for Miss B from the recipient account. Meanwhile, it investigated. But it found that the payment had gone to an account which Miss B had set up on her mobile app on 3 March. So on 12 May it wrote to tell her that the payment had gone to the correct account number. It advised her to contact the beneficiary direct.

On 18 May Miss B made another payment to the same beneficiary, this time for £25.

She contacted NatWest again when her partner didn't receive this money. NatWest tried to retrieve both payments from the recipient, but wasn't able to do so.

Miss B complained. In NatWest's final response letter on 24 July, it said that it could see that there were two payees set up on her account. Both had been set up by mobile banking. One had been set up with her partner's title, initial and surname, and the other had her partner's first name. The two payees had different sort codes and account numbers. NatWest said that as Miss B had set up the payees herself by mobile, it hadn't made an error.

Miss B wasn't satisfied and contacted this service. She said NatWest had told her there had been a name change on her partner's account, and his surname wasn't on it. She said that neither she nor her partner had any knowledge of the account to which the payment had gone, and she wanted NatWest to reimburse her with £225 for the two payments.

Our investigator didn't uphold Miss B's complaint. She said that Miss B had paid money to the disputed recipient on three occasions in March and April, and she hadn't disputed those payments. She noted that Miss B had provided her partner's bank statement to show that he hadn't received the money which had been sent. But the investigator pointed out that the statements which Miss B had provided weren't for the account to which Miss B had sent the disputed £200 and £25 payments. The investigator said that Miss B had created all the payees, which hadn't been amended, and that Miss B had authorised the disputed payments using her device, her app, and her usual IP addresses.

Miss B didn't agree. She said she didn't know whose account had received the money. She said that normally when making payments, if the account details didn't match, she'd get a warning message. She said that she'd initially thought that the amount she'd lost was £225. But after talking to the investigator about all the payments which had gone to that recipient, it was over £400 which she'd sent to an account she didn't know. She wanted this service to contact the bank to which the disputed transactions had been sent.

Miss B asked for an ombudsman's 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.

What this decision covers

After the investigator issued her view, Miss B said that the other, earlier, payments to the disputed payee had been sent to an account with which she said she wasn't familiar.

This service, however, can only consider complaints which a customer has already raised with the bank. Miss B hadn't previously told NatWest that she disputed the other payments to this payee: £150 on 3 March, £6 on 31 March and £60 on 11 April. So I don't automatically have jurisdiction to consider these – only the ones about which Miss BB had already complained to NatWest ie the £200 payment on 5 May and the £25 payment on 18 May.

As, however, the other three payments were to the same payee, and appear to have similar circumstances, I asked NatWest whether they wished me to consider these payments which Miss B was now disputing as well. It agreed, and provided information about those payments. So this decision covers all the payments Miss B has disputed.

Regulations and who authorised the disputed transactions

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them. So what I need to decide here is whether it's more likely than not that Miss B, or someone else, authorised the disputed payments.

The computer records show that the disputed payee was set up on Miss B's NatWest account on 3 March. The payee was set up by someone successfully signing in to Miss B's mobile banking, and there are no error messages which would record unsuccessful login attempts. There was a confirmation of payee – in other words, the payee details matched those on the recipient account. The device used for accessing mobile banking was the one which Miss B had registered to her account. So I find that it's most likely that it was Miss B, or someone with access to her registered device and security information, who set up the details for the disputed payee on 3 March.

Miss B then made a number of payments to this payee, starting on 3 March with a £150 payment. There was also a £6 payment on 31 March and a £60 payment on 11 April. These are the payments which Miss B didn't dispute until after the investigator's view, though it's not clear why she didn't.

If a third party fraudster had set up the payee on 3 March, it's most unlikely they'd only have made these relatively small payments. Typically, a third party fraudster would take out as much money as possible in a very short time, before the account holder can find out and stop the transactions.

In addition to not initially disputing any of the earlier payments to this payee, I also find it strange that, after disputing transactions to this payee with NatWest and receiving a reply on 12 May, Miss B then made another payment to the same payee on 18 May.

Other points

Miss B has queried why she didn't get a warning message when she sent the payments. The reason is that she'd set up this payee herself, and had then started to make occasional payments to them which at that stage she hadn't disputed. So there was no reason for NatWest's systems to flag these payments as unlikely to have been authorised by Miss B.

Miss B has also asked us to contact the recipient bank to investigate further. But that isn't our role in the circumstances of this complaint. Miss B set up the payee from her NatWest account. And what the Regulations say, as I've set out above, is that what matters is whether or not the customer authorised the payment. Where the payment goes to, isn't relevant.

I have, however, noted from the records of where the payment went to, that Miss B set up the new payee with a reference number of the first name of her partner. There wasn't any change to the name on the account as Miss B later said. The recipient account she set up was a business account, and the payee account name is a company. The sort code is the same as for the account which Miss B says is her partner's account. So it's possible that what may have happened here is that Miss B set up both payees, and that the disputed one may have been to her partner's business account. She might have intended to make the first few payments which she didn't dispute till much later – and then accidentally made more payments to the business account, instead of to her partner's personal account. This could have been an easy mistake to make, as she'd set up one payee with his initial and surname, and the other with his first name.

But if Miss B made a mistake and sent the payments to the wrong account, this wasn't NatWest's fault. And the test under the Payment Services Regulations is whether a customer authorised the payments – and Miss B did authorise them. So NatWest doesn't have to refund Miss B.

So I find that Miss B set up the disputed payee herself, and authorised the payments herself. So NatWest doesn't have to refund her.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 5 March 2024.

Belinda Knight
Ombudsman