

## The complaint

Mr K says Bank of Scotland PLC, trading as Halifax, refuses to refund him for transactions on his account he says he didn't authorise.

## What happened

Mr K says on 27 July 2023 he logged onto his Halifax online banking account and noticed two ATM withdrawals of £500 each which he hadn't made. Mr K says he visited a fast-food restaurant on 26 July 2022, where it's possible he was shoulder surfed, and he must have dropped his card or been pickpocketed as he no longer had his debit card.

Halifax has decided not to refund the transactions and to hold Mr K liable for them. It felt the absence of a balance inquiry on the ATM suggest the person withdrawing money was aware of the account balance. It also pointed out that Mr K had initially said someone had shoulder surfed him but also said someone else must have guessed his PIN. So overall it wasn't persuaded the transactions in dispute were unauthorised.

Our investigator considered the complaint and also decided not to uphold it. Mr K wasn't happy, so the complaint has been passed to me for a 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.

Generally speaking, Halifax is required to refund any unauthorised payments made from Mr K's account. Those rules are set out in the Payment Service Regulations 2017. Mr K said he didn't carry out the transactions in dispute. So, I must give my view on whether I think Mr K did authorise the transactions or not, based on the evidence available.

I have thought carefully about what Mr K has said, and I have considered this alongside the evidence provided. This is a finely balanced case and it's difficult for me to say what happened without being there myself. But ultimately, there isn't a lot of evidence to support what Mr K has said and without this I am not persuaded that the transactions were unauthorised. I'll explain why.

The two disputed transactions are both ATM withdrawals. This means Mr K's genuine card and PIN were used to make them. Halifax has held Mr K responsible for them as it has not been convinced that Mr K's PIN had been compromised. Mr K told us that he has never shared his PIN with anyone, nor has he written it down or stored it anywhere. Mr K's explanation is that he thinks he was shoulder surfed at the fast-food shop he visited prior to the disputed ATM withdrawals. Mr K explained that the shop was very busy and there were suspicious people lurking around at the time. I appreciate Mr K could've been shoulder surfed at this point, but I also think it's likely that he would've shielded his PIN if the situation was as he described above. Additionally, I think if he was suspicious he was being shoulder surfed, he would've been more careful with his debit card after the transactions and perhaps even changed his PIN as soon as he could.

I've seen that the transactions in dispute were both £500 transactions, one carried out on 26 July just before midnight, and one just after midnight on 27 July. The maximum daily withdrawal limit differs with different banks and the customer's settings, with some banks allowing up to £800 a day. Usually with fraudulent ATM withdrawals we see transactions attempted in quick succession until they reach the maximum daily limit. We also usually see a balance check first, to ensure the funds requested are available in the account. However, there is no evidence that a balance enquiry was made on the account before the transactions were attempted. There is also no evidence that another transaction was attempted after the initial £500, until the next day.

So overall, there isn't any evidence to support what Mr K has said, and I'm not persuaded that the transactions in dispute were carried out without Mr K's authorisation and consent. I know this outcome will be a disappointment to Mr K, but for the reasons outlined above I don't think it would be fair to uphold this complaint and ask Halifax to refund the payments.

### **My final decision**

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 21 November 2024.

Sienna Mahboobani  
**Ombudsman**