

The complaint

Ms L complains Revolut Ltd (“Revolut”) refuses to refund her for transactions on her account she says are unauthorised.

What happened

The facts of this case are well known to both parties, so I won’t repeat them in detail here.

In summary, Ms L’s phone was stolen on 12 January 2024 at around 2pm. Ms L says several transactions were carried out on her Revolut account via the stolen phone, which she didn’t authorise. Ms L says the disputed transactions amount to £31,150. She says she doesn’t know how the thief was able to gain access to her phone, but she has never shared her security information, and these were not stored on her phone either.

Revolut refused Ms L’s claim on the basis that it believes she has been grossly negligent. It says she must have stored her Revolut passcode on her phone or phone case somewhere as there is no other explanation as to how the thief would have known this. So Revolut has held Ms L responsible for her loss.

Our investigator considered the evidence in this complaint and decided to uphold it in Ms L’s favour. Revolut disagreed 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, Revolut is required to refund any unauthorised payments made from Ms L’s account. Those rules are set out in the Payment Service Regulations 2017. The exception to this is where the consumer has failed with gross negligence to comply with their obligations as a payment service user, and that has allowed the disputed transactions to take place.

Revolut doesn’t appear to have treated the disputed payments as authorised. Rather it has accepted Ms L’s explanation that her phone was stolen on 12 January 2024 and the transactions were carried out by someone else without her authority.

For the avoidance of doubt, I’m also persuaded that the payments are unauthorised. Ms L has been consistent in her explanation of events and has shown us evidence that she reported her phone theft to the police and blocked her SIM card. The evidence surrounding the disputed activity also appears to be consistent with a pattern of fraud. All the evidence is consistent with Ms L’s phone being stolen and the transactions being made by an unknown third party. However, Revolut thinks Ms L was grossly negligent in failing to keep her security details safe and for failing to report the theft to Revolut sooner than she did.

A payment service user’s obligations are set out in Regulation 72 of The Payment Service Regulations 2017. These say that a consumer must:

- use the payment instrument (for example, a debit card and PIN or the procedure used to initiate a payment) in accordance with the terms and conditions governing its issue and use (NB the terms and conditions must be objective, non-discriminatory and proportionate. Terms and conditions that require customers to open and destroy a PIN notification immediately, or prohibit customers from writing down or recording their PIN in any form would be disproportionate)
- notify the bank without undue delay if the payment instrument is lost or stolen
- take all reasonable steps to keep the personalised security credentials relating to a payment instrument safe.

The transactions were all carried out on Ms L's phone through her Revolut app. Ms L has told us that her phone was unlocked at the time it was snatched from her, but this doesn't explain how the thief was able to gain access to her Revolut app. Revolut says Ms L used her fingerprint to access her Revolut app in the two days prior to the disputed transaction, so it doesn't think Ms L could've been shoulder surfed entering her Revolut passcode.

Revolut says Ms L must have written down her app passcode on her phone or in her phone case, and for that she should be held responsible for the disputed transactions. And as Ms L's app passcode was not the same as any code needed to get into her phone, there is no other way that the thief would've known this information unless it had been stored on her device or phone case. I've thought about but I don't agree, I'll explain why.

I have not been provided with any evidence to support what Revolut has said. Ms L has maintained throughout her complaint that she had not shared or written down this information anywhere. Generally, Ms L's testimony has been consistent and backed by evidence. I've also looked through the chats between Ms L and Revolut in the time after the theft and there is no evidence that she did not know her app passcode.

I appreciate Revolut has asked us to explain how a third party would have been able to access her device had she not written it down on her phone or phone case. However, I am not required to explain exactly how an act of fraud took place. We have seen examples where third parties have been able to access apps on a stolen phone due to weaknesses in the phone software. So I can't rule out the possibility that the thief managed to gain access by some other means, and without any evidence to support what Revolut has said, I don't think it is fair to assume Ms L had written down her passcode and therefore should be held grossly negligent.

Revolut has also said that Ms L should've have notified Revolut of the theft sooner in order to protect her account. Ms L says she did call Revolut on the only number she could find which is an automated phone line. She says she used this to block her card and then explains in detail how she tried to notify Revolut that her phone had been stolen. It appears she was trying to get in contact with Revolut from around 4pm onwards and up until after midnight when she was finally able to gain access to her account. Overall, I think she acted as any reasonable person would have, and I don't think her actions were grossly negligent.

Considering everything I have seen and been told I am satisfied these transactions were unauthorised and I am not persuaded Ms L has been grossly negligent. Therefore, I am upholding this complaint.

Putting things right

Revolut Ltd should refund the total of the disputed transactions, minus any amounts already refunded. Revolut Ltd should also add 8% simple interest from the time the transactions were made till they are refunded back to her.

My final decision

I am upholding the complaint, Revolut should put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 17 July 2024.

Sienna Mahboobani
Ombudsman