

complaint

Mrs L is unhappy that Barclays Bank PLC is asking her to repay a loan she says she didn't take out. Mrs L is also unhappy that the bank won't refund money she says was transferred without her authority. Mrs L's representative, Mr F, brings the complaint on her behalf.

background

Mrs L had a lodger, Mr N. He said he was her nephew. He was a frequent visitor to her house from 2009. In 2013 he moved in permanently. Mrs L says that Mr N gained her trust. He applied online for a loan. He got £15,000 from Barclays in October 2013. Mrs L says he made transfers without her permission. Mr N also took out money from cash machines and at a Barclays branches.

Barclays says that Mrs L knew about the loan. She was happy for the transactions to happen.

Our adjudicator found that Barclays had done nothing wrong. He found that Mrs L had authorised the transactions.

Mrs L wants an ombudsman's review. She insists that Mr N has acted fraudulently.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

In cases like this, where the evidence is contradictory, I reach my decision on a balance of probabilities. That means I'll look at all the available evidence. I'll then decide what I think is most likely to have happened.

Mr F has made numerous arguments in support of Mrs L's complaint. Whether her lodger committed fraud is for a court to decide, not me. My role is to focus on what I consider is the main issue here. Did Mrs L authorise the transactions with Barclays?

loan

The loan was taken out online. £15,000 was paid into Mrs L's current account. Mr F says that Mrs L doesn't have a computer. She doesn't know how to use one. But she told Barclays' staff she had taken out the loan.

As English isn't Mrs L's first language, one of the branch managers also got her to talk to a senior member of staff at a neighbouring branch. This staff member is fluent in Mrs L's native language. She again said that she had taken the loan out.

I have looked at Barclays' records from when it investigated Mrs L's fraud allegation. She visited a Barclays branch with two relatives. Barclays' records show that Mrs L made several references to the loan. She gave the bank several different reasons for what the loan was spent on. These included sending money overseas to relatives, using it for a visa application and giving it to Mr N.

Mrs L and her relatives have since said they don't remember any questions about the loan or the answers Barclays says she gave. But I am happy that the bank's records are detailed and consistent.

On balance, I am satisfied that Mrs L knew about the loan.

cash machine withdrawals

Mr F says that there is clear evidence that Mrs L's debit card and Personal Identification Number (PIN) were intercepted. But I can see that Mrs L asked Mr N to make cash withdrawals for her. She knew that he had access to her bank account. Barclays' records also show that Mrs L told the bank that she had given Mr N her debit card and PIN to use.

I can also see that Mrs L asked Barclays to add Mr N to her account. She said that this was in case she couldn't get to the bank. On balance, I'm not satisfied that Mrs L didn't authorise these withdrawals.

branch transactions

I can see that Mrs L made large withdrawals from several Barclays branches. Mr N was with her. Numerous times Mrs L was taken into an office by the branch manager and a senior member of staff. This was a private office away from Mr N.

The bank's staff say they always questioned Mrs L to make sure she wasn't being pressured into making the withdrawals by Mr N. Mrs L always told them she was happy. He was helping her. Nothing was wrong. She also said that she was sure she wanted him to be a joint party on the account.

cheques

Mrs L also says that she didn't sign a number of cheques that debited her account. I have looked at the cheques. I have compared them to the bank's mandate and our complaint form. I agree with the adjudicator and Barclays. While I am not an expert, the signatures look like a good match.

I can see that at the time of the disputed transactions, Mrs L had a trusting relationship with Mr N. He was her lodger. He also acted as her carer. I accept that Mrs L is now unhappy with the transactions involving him. But on balance, I am satisfied that at the time she knew about them and wanted them to proceed.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr F, on behalf of Mrs L, to accept or reject my decision before 10 July 2015.

John Miles
ombudsman