

complaint

Mr R complains that Skrill Limited (formerly Moneybookers) won't reimburse an unauthorised transfer made from his e-money account.

background

On successive days, Mr R's Skrill e-money account was debited with two payments. The first was for US\$500, which Mr R sent to his bank account. The second, for US\$4,020, went to a third party. Skrill subsequently blocked Mr R's account as it had concerns over suspicious activity connected to the third party. Mr R says he didn't make the second transaction. He thinks fraudsters may have hacked into his Skrill account without him knowing.

Skrill isn't willing to reimburse Mr R for the disputed transaction. It says the account was accessed by someone who knew Mr R's login credentials. It sent him an email at the time informing him of the transaction. Skrill says it's likely Mr R's computer has been compromised and/or infected with malicious software. But it also says the account was accessed the day before Mr R sent his US\$500, and that it displays details of the last login time when customers access their account. Skrill contends that Mr R would therefore have known about the unauthorised access but failed to report it. As such, it's holding him liable.

Mr R says he didn't get the automatic email notification – or at least, he wouldn't have known about it – as his email address was hit with a large volume of 'spam' at the time. He thinks this might have been part of the fraudsters' tactics. Mr R says he didn't know about the feature that shows previous access and hadn't seen it at the time. Even if he had seen it, he probably wouldn't have realised that it wasn't his own login. The first time he had any suspicion his account had been compromised was when he logged in after the transaction had been made. At that point, he immediately contacted Skrill.

my provisional findings

I recently wrote to both parties, setting out my proposed findings and how I thought the complaint should be resolved. In summary, I was minded to conclude that Skrill hadn't shown that Mr R had either gained knowledge of the account/security compromise but failed to tell it, or that he had with intent or gross negligence compromised the account security. Absent this, in line with the Skrill agreement he was entitled to a full and immediate refund of the unauthorised payment and associated fee. I also proposed that Skrill pay Mr R interest on this sum.

I invited the parties to let me have any further information or evidence, if they wished, before I finally determined the complaint.

my findings

After receiving responses from both parties, I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr R accepted my proposed resolution. But Skrill didn't. It reiterated its view that Mr R would have known his account was accessed without authority before the disputed transfer, because of the last login displayed. Skrill added that it couldn't rule out the possibility of Mr R's account security being compromised with intent or gross negligence.

I've carefully considered Skrill's response. Having done so, however, I see no reason to depart from the conclusions I reached in my provisional decision. I explained in my provisional decision why I wasn't persuaded that merely displaying the last login time was sufficient to say Mr R was aware his account was being accessed by someone else.

Mr R has said he didn't even know this information was displayed. However unlikely Skrill might consider that evidence, it hasn't persuaded me that Mr R knew his account was being accessed and didn't take any action. Indeed, the fact he took no action suggests to me it's more likely that he *didn't* know. As I noted in my provisional decision, no transaction had been made at that time, such that Mr R's attention might have been drawn to the unauthorised access. And Mr R's attention is drawn towards transactional activity. After all, he immediately raised his query when he realised money had been taken.

Further, Skrill hasn't offered any evidence that Mr R's account was compromised in the way it has suggested. So I can't fairly conclude it's entitled to rely on this term within the agreement in order to hold Mr R liable.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it, Skrill Limited must credit Mr R's account with the missing US\$4,020, along with the associated fee.

Skrill Limited should also pay interest on this sum at a rate of 8% simple per year, from 27 May 2013 (being the date of the withdrawal) to the date of settlement. This is intended to recognise the difficulty caused to Mr R from being deprived of access to his funds. If Skrill Limited deducts tax from the interest element of this award, it should provide Mr R with the appropriate tax deduction certificate.

Niall Taylor
ombudsman