



Case study: Banking

VICTIM OF THEFT BY AN EX-EMPLOYEE

Themes: Complainant's contributory error; bank's terms and conditions;

This complaint related to the failure by a complainant to notice an ex-employee was stealing from the company account.

In October 2019 Mr E made a complaint to his bank after noticing a number of payments from his company's account had been made to what he believed to be a service provider. It transpired after further review of the payments that, although the payments named the actual service provider as the beneficiary, they had in fact been credited to the account of an ex-employee of Mr E's company. Mr E believed that a total of over £70,000 in payments, made over a period of three years, had been fraudulently made to the ex-employee's account.

The bank responded to Mr E's complaint by stating that the ex-employee had made the transactions using the online banking platform that the bank had provided to Mr E. The bank emphasised that the name of the beneficiary account was not used by the bank to identify the recipient. Only the recipient account's sort code and account number were used to route the payment. The bank stated that the terms and conditions for the on-line banking service clearly stated that it was Mr E's obligation to ensure there was limited access to the on-line service details. The bank also noted that Mr E had intentionally given on-line banking access to the ex-employee to make banking transactions on the company's behalf. The bank felt that Mr E had failed to secure the payment details in accordance with the bank's terms and conditions and was therefore not entitled to a refund. Mr E disagreed with the bank's decision and brought the complaint to CIFO.

CIFO investigated and found that the bank had not acted inappropriately or negligently and felt that the company's funds had been misappropriated by the ex-employee. Mr E had given the company account online banking facility details to the ex-employee, meaning that Mr E had given his authority for the ex-employee to access the company account. CIFO noted the bank statement references that had mis-lead Mr E to believe the payments were genuine but, also noted that the bank would have no control over these references as these would have been input by the payee. CIFO concluded that the bank would not have any clear indication that fraudulent activity was taking place or that the transactions were not authorised. The loss had been due to the ex-employee's abuse of the company account access. CIFO did not uphold the complaint.