

The complaint

Mr E complains that Santander UK Plc (Santander) has taken money from his account when he thinks it shouldn't have.

What happened

In July 2020, it became apparent that a holiday Mr E had arranged through a package holiday supplier wouldn't be able to go ahead as planned, due to the Covid-19 pandemic.

So, Mr E contacted the holiday supplier to try to get a refund. He didn't have any success and so he contacted Santander to ask it for help getting his money back.

Santander sent Mr E forms to complete, which he duly did and returned with paperwork to support his claim. The claim related to four payments Mr E had made on his credit card in October, November & December 2019 and July 2020. The total amount paid was just over £3,100.

Santander raised a dispute with the holiday supplier through a process known as chargeback. In letters dated 9 & 10 August 2020 (one for each payment), Santander told Mr E it was looking into his claim against the holiday supplier and that it had, in the meantime, credited his account with the individual payments. It said, if the holiday supplier had documents to suggest the payments were Mr E's responsibility, or any other information became available, it would let him know and might debit his account with the amounts in question. It said if Mr E didn't hear from it within 45 days, the credits would stay on his account and it would close the claim.

Mr E didn't hear from Santander until he received letters dated 9 October 2020, which told him Santander planned to take back the money within 14 days.

Unhappy with this, Mr E complained to Santander. It explained when it had raised the dispute against the holiday supplier it had initially placed the four credits on Mr E's account. These showed on Mr E's August 2020 statement with the original transaction date.

Santander said shortly after it applied these credits, the holiday supplier had also refunded Mr E and again these credits appeared on his August 2020 statement.

Santander explained it didn't receive a reply from the holiday supplier to the dispute within the 45-day timeframe set by the chargeback scheme provider and so it closed Mr E's claim, leaving both sets of credits on his account.

The fact that Mr E had been refunded by the supplier (which it said invalidated the chargeback) came to light on a subsequent review by Santander. So, it had written to Mr E to explain it would debit the amounts from his account within 14 days of the date of the letter.

Unhappy with its reply, Mr E complained to this service. Our investigator engaged with Santander. It accepted there had been an error on its part and offered to pay Mr E £150 compensation for any upset or inconvenience it may have caused.

This didn't resolve matters for Mr E. He wants to keep the £3,100 in addition to the refund from the holiday supplier. In summary, he says he only noticed the refund applied by the holiday supplier in August 2020. He had no reason to view historic statements and so was not aware of the other credits Santander had applied to his account.

He says as the deadline had passed for Santander to take the money back, it had become his. When Santander told him it was planning to recover the money he had refused permission for this, but it took the money anyway. It had therefore acted illegally and stolen the money from his account, which left him suddenly worse off than he thought he was.

As the matter has not been resolved it falls to me to make a 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.

I acknowledge what Mr E says about becoming entitled to the money once the 45 days had passed and that he thinks Santander stole the money from him when it removed it from his account without his permission. If Mr E wishes to pursue such allegations or argument about legal ownership of the funds, then that is something he will need to pursue in court, as only as only a court can decide matters of law.

The pertinent issue for me to consider is whether Santander acted unfairly or unreasonably when it took back the credits from Mr E's account. I don't think it did. I'll explain why.

Santander has clearly made an error here. Indeed, it accepts that is the case. It didn't remove the credits in the timeframe it said it would and its August letters to Mr E created the impression that after 45 days the credits would stay on Mr E's account.

But although the wording of the letters could have been better, it did indicate that should information come to light to show the payments were Mr E's responsibility, *or any other information became available*, it might debit his account with the amounts in question. I know Santander acted outside of the timeframes, but the letters did indicate that the credits were contingent payments. So, I don't think things are quite as clear cut as Mr E has suggested.

Moreover, when a mistake is made by a bank, it isn't necessarily fair or reasonable for a consumer to be allowed to keep the perceived benefit of that mistake. Instead, I need to think about what a fair and reasonable remedy in all of the circumstances is.

Here, the credits were applied to Mr E's account as a goodwill gesture while Santander tried to help Mr E to get his money back. Mr E then got his money back directly from the holiday supplier outside of the chargeback scheme. Mr E has had all the money he paid out for the holiday refunded back to him. So, I don't think it reasonable that Mr E also retains the credits from Santander, simply because it didn't take the money back from Mr E within the stated timeframe.

I acknowledge what Mr E has said about not being aware that Santander's credits had been applied to his account. I am not sure what Mr E may have seen when he accessed his account online, but his paper statement for August 2020 clearly reflects the credits from both the holiday supplier and Santander, with the Santander refunds showing on the August 2020 statement – with the dates of the original transaction in the date column.

Even if the Santander credits didn't clearly show on his online account, I think it likely that

Mr E would have realised, when he accessed his account, that his balance was noticeably different to what he would have been expecting.

I acknowledge Mr E says he was made financially worse off when the money was taken from his account. But, as above, Mr E had already been refunded by the holiday supplier, so I am not persuaded he was left out of pocket in relation to the holiday. And Santander gave him reasonable notice of its intention to recoup the money. Based on the evidence provided, I have not seen anything to suggest that Mr E has lost out financially here.

I have also taken account of what Santander has said about the fact that it was common at the time for funds from suppliers to be refunded outside of the chargeback process – leading to the type of double credit that happened here. It was a challenging and novel time for banks, dealing with unprecedented circumstances as well as a significant increase in the volume of consumers looking to them for help. So, I can understand how something like this might have happened.

Standing back and looking at what has happened, I don't think Santander was acting unfairly or unreasonably when it removed the sums in question from Mr E's account. I also don't think it fair or reasonable that Mr E retain just over £3,100 in addition to the refund from the holiday supplier as he has asked.

Putting things right

I think Santander's offer of £150 fairly offsets any distress or inconvenience suffered by Mr E here.

My final decision

My final decision is that Santander UK Plc should pay Mr E £150 distress and inconvenience to settle this complaint, if it hasn't already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 9 June 2022.

Siobhan Kelly
Ombudsman