

## The complaint

Miss B says that Santander UK Plc unfairly handled her claim for reimbursement for a faulty laptop that she had purchased via a credit card.

## What happened

In October 2020 Miss B purchased a laptop via an online marketplace site. She paid the purchase price of £263.48 with the credit card she held with Santander.

When the laptop was delivered Miss B confirmed her order. Unfortunately, around one month later the laptop developed a fault and Miss B was unable to use it. She contacted the merchant that had supplied the laptop. The merchant asked for photos of the problem which Miss B supplied. After some exchanges the merchant asked Miss B to open a dispute via her order.

Miss B says she tried to open the dispute but wasn't able to as it was now outside of the 30- day time limit for doing so. She contacted the merchant and explained the problem and asked where she should return the laptop. Miss B says the merchant stopped responding to her enquiries.

Miss B contacted Santander and disputed the charge on her credit card for the laptop, explaining that it was faulty. Santander declined a chargeback claim for the laptop. It said the chargeback scheme rules were provided by Mastercard and not itself. Santander said that as the laptop was supplied with a warranty and hadn't been returned by Miss B it couldn't pursue a chargeback for her.

Miss B was unhappy at Santander's response and complained to it. Santander said it was upholding Miss B's complaint because it hadn't looked at whether she could make a claim for reimbursement via section 75 of the Consumer Credit Act 1974. It said it would now forward her claim to the section 75 department.

Santander, having reviewed Miss B's claim under section 75, declined it. It said that it was a requirement for any claim under section 75 to have an unbroken debtor-creditor-supplier chain, but this wasn't the situation with Miss B's purchase of the laptop. This was because she had ordered and paid for the laptop via the online marketplace site and not directly with the merchant who'd supplied the goods.

Miss B complained to this service about Santander's decision. Our investigator didn't recommend that her complaint should be upheld. She said that she thought Santander had handled Miss B's claim for reimbursement for the defective laptop fairly. Our investigator said she thought Santander had reasonably applied the chargeback scheme rules. She also said she was satisfied that as the debtor-creditor-supplier chain had been broken section 75 couldn't apply.

Miss B disagreed with the view of our investigator. She said she had tried to make contact with the merchant, but they had stopped responding to her. She'd been unable to send the laptop back as it had been delivered from China via Spain and she had no return address. Miss B said she'd asked how to return it but got no response from the merchant.

Miss B also said she had lost the opportunity to use the dispute service run by the online marketplace because of the time she'd taken trying to resolve the issue directly with merchant. The dispute scheme had only operated for 30 days after delivery of the goods.

As the parties have been unable to reach an agreement the complaint was passed to me. I issued a provisional decision along the following lines.

The issue for me to consider here was whether Santander had handled Miss B's claim for reimbursement of the cost of the laptop fairly. I didn't think it was disputed that there was a fault with the laptop as the photos clearly showed a problem with its functioning. However, the cause of the fault was unknown though it appeared to have developed around one month after Miss B had received it.

When Miss B had made her claim to Santander, it had first considered using the chargeback scheme. Chargeback is a process that involves the card issuer disputing payments made on the card through a dispute resolution scheme operated by the companies which run the card networks, here that's MasterCard. It allows customers to ask for a transaction to be reversed if there's a problem with the goods or services they've paid for. There's no automatic right to a chargeback and it isn't a guaranteed method of getting a refund.

The Card Scheme sets out the necessary conditions under which a claim can be processed. These are that the cardholder engaged in the transaction, the cardholder contacted the merchant to resolve the complaint and the merchant refused to adjust the price, repair the item or replace it. It also says that for disputes involving goods the cardholder must have either returned the item or have informed the merchant that the goods were available for pick-up.

If Santander feels that a claim won't be successful, then it doesn't have to raise a chargeback. So, Santander isn't obliged to make a chargeback if it concludes that the chances of success would be remote. Santander said that as the laptop came with a one- year warranty and Miss B hadn't returned it then her claim didn't meet the criteria for the chargeback scheme to apply. And it decided not to a raise a chargeback for Miss B.

Looking at the evidence, I was satisfied that Miss B had engaged in the transaction as she had used her credit card to pay for the laptop. I'd also seen she had contacted the merchant and raised the problem with them. The merchant at first appeared to have responded to Miss B's enquiries but having told her to open a dispute via the online marketplace it then failed to respond to her when she informed it that this wasn't possible. I'd seen Miss B had told the merchant on at least two occasions that she couldn't follow its advice to open a dispute. She had also asked about how she could return the laptop during this exchange though the merchant hadn't responded to that query either. Miss B said that communication had then stopped between her and the retailer. Miss B provided copies of her correspondence with the merchant to Santander when making her claim.

Miss B said that as her complaint about the laptop had arisen after thirty days from receipt of the goods, she wasn't able to use the dispute service available from the online marketplace. She said that seeking reimbursement via Santander was her only option.

Looking at the criteria for a chargeback I didn't think Santander had acted fairly here in declining to pursue a claim for Miss B. I thought Miss B had provided sufficient evidence that the merchant, by ceasing its contact with her, had refused to assist her with her claim. I'd also seen that she had made enquiries about returning the laptop. There didn't appear to have been a return address provided with the laptop as it had been posted from China via Spain. Miss B said she needed an address to return it to.

I thought in these circumstances that Santander hadn't considered whether Miss B had satisfied the criteria of having informed the merchant that the laptop was available for collection. It appeared to have only considered that as Miss B still had the goods then the criteria weren't met. So, I thought Santander could have done more about assisting Miss B with a chargeback claim.

I also thought that had Santander proceeded with a chargeback claim on behalf of Miss B that it was more likely than not to have been successful. This was because the merchant had stopped responding to Miss B so I didn't think it likely it would have responded to Santander and defended the claim either.

I'd seen that Santander had considered whether a claim under section 75 of the Consumer Credit Act 1974 could be pursued. Under section 75 the consumer has an equal right to claim against the provider of the credit or the retailer providing the goods or services if there has been a misrepresentation or breach of contract on the supplier's part. For section 75 to apply, the law says that there has to be a debtor-creditor-supplier chain to an agreement and a clear breach of contract or misrepresentation by the supplier in the chain.

Santander had explained that here the debtor-creditor-supplier had been broken because of the use of the online marketplace by Miss B to order the laptop. While I appreciated Miss B felt strongly that there was a chain, I'm afraid I agreed with Santander. Miss B had paid for the laptop via the online marketplace site and not directly to the merchant. This meant that the required direct link to the supplier had been broken. I agreed with Santander that Miss B's claim for reimbursement via section 75 wasn't valid because it didn't comply with the criteria set out in the legislation.

So, for the reasons given, although I agreed that Santander had acted fairly when deciding Miss B's claim didn't fulfil the criteria for a claim under section 75, I didn't think it had acted fairly in respect of deciding not to pursue a claim under chargeback. And, as set out above, I thought a chargeback claim would have been successful. I was therefore intending to uphold Miss B's complaint. And in light of that, I thought it would be fair for Santander to refund her the sum of  $\pounds 263.48$  being the cost of the laptop.

So, I asked Santander to re-work Miss B's credit card account as if £263.48 had not been paid, refunding any interest and charges in respect of that amount. If this calculation resulted in a credit balance Santander needed to refund this and pay interest on it at a rate of 8% simple per year calculated from the date of said credit balance to the date of settlement

Neither Miss B nor Santander has asked me to reconsider any parts of my 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.

Although neither party disagreed with my provisional view, I still reviewed it against the evidence. I haven't changed my mind. For the reasons set out above, I think Santander

could have done more to assist Miss B with a chargeback claim. I also think such a claim would have been likely to have been successful as I don't think the retailer would have defended it.

I'm therefore upholding Miss B's claim.

## Putting things right

I'm asking Santander to do the following:

• To re-work Miss B's credit card account as if £263.48 had not been paid, refunding any interest and charges in respect of that amount. If this calculation results in a credit balance Santander needs to refund this and pay interest on it at a rate of 8% simple per year calculated from the date of said credit balance to the date of settlement.

## My final decision

For the reasons given above I'm upholding Miss B's complaint. I'm asking Santander UK PIc to do the following:

• To re-work Miss B's credit card account as if £263.48 had not been paid, refunding any interest and charges in respect of that amount. If this calculation results in a credit balance Santander needs to refund this and pay interest on it at a rate of 8% simple per year calculated from the date of said credit balance to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 22 June 2022.

Jocelyn Griffith **Ombudsman**