

## **The complaint**

Ms D complains Santander UK Plc (Santander) won't refund transactions that she thought would be blocked. She asks that the transactions be refunded.

## **What happened**

In October 2021, Ms D carried out a number of gambling transactions at a third-party establishment I will call "S".

She complained to Santander after completing a disputed transaction form for some of these transactions. On the form she reported the machine she had used was faulty and had taken her payment more than once.

She also said she had contacted Santander and asked for a block to be placed on subscription payments and she understood this would mean payments to "S" would be blocked.

She pointed out in the past she has been refunded for similar disputed transactions and doesn't feel it is fair that Santander are refusing to refund her on this occasion. She says this whole matter is making her ill and she is now struggling financially.

In its final response dated 27 October 2021, Santander didn't uphold her complaint. First, it considered chargeback based upon Ms D's statement that the machine was faulty, but because Ms D had entered her card details and authorised it several times, the transactions did not meet the criteria for chargeback under the scheme rules.

It then considered the block on transactions Ms D thought should have applied. It acknowledged a Future Card Payment block had been applied to a different account in error and offered Ms D £25 by way of compensation. But it also said that this would block subscription payments and not gambling transactions. It went on to explain gambling transactions are treated as cash rather than debit payments and so it wouldn't apply in this case. It asked Ms D to contact them directly to discuss any concerns she may have about gambling and it could look to apply a block to any gambling establishment and transactions entirely.

Ms D was disappointed and so brought her complaint to this service.

An investigator looked into things for Ms D and spoke with her on the phone. In his view he said:

- Santander had confirmed the MasterCard chargeback rights are different to that of Visa. The decision from MasterCard was to decline the claim for payments made to "S" between 11-28 October 2021 as they didn't meet the chargeback criteria.
- There was no available evidence that Ms D had advised Santander directly she had concerns about gambling. Had she done so; this would be recorded on the customer alerts with Ms D's permission.

- The block that was applied was for subscription payments and not for gambling.
- When Ms D raised the dispute, the payments to SGL were authorised with the card present via chip and pin over several days. Santander say that this doesn't represent a faulty machine so wouldn't have been a fraudulent transaction either.
- Santander said the transactions to S weren't easily recognised as gambling and they wouldn't have been captured by the block for subscriptions payments.
- Ms D would need to apply the block for any gambling transactions, as this hasn't been done, Santander can't be held responsible for the transactions.

In his view he found Santander had acted fairly and reasonably in the circumstances of this complaint and didn't ask it to do anything further.

Ms D was very disappointed with this outcome. She asked for an ombudsman review.

### **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.

Having done so, I have reached the same outcome as the investigator and for broadly the same reasons. I appreciate this will come as a disappointment to Ms D, I'll explain why.

Ms D has raised two issues with regard to these transactions. The first is a disputed transaction which she asked to pursue a refund via chargeback. The second that in any event, she thought these transactions should have been blocked following an earlier conversation with Santander.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

When considering a complaint about a financial services provider, I'm not determining the outcome of a claim that a party might have under chargeback. I take that into account when I think about what's a fair way to resolve the complaint, but I don't have to reach the same view as, for example, a court might reach.

The chargeback scheme is intended to help resolve disputes between the consumer and the merchant without the need to resort to court action. The scheme operator, MasterCard in this instance, sets strict rules under which claims can be made.

The starting point is that Santander is entitled to hold a customer liable for a transaction that they've authorised. Ms D doesn't dispute this, but in the first instance she says the machine she used was faulty and took payment without providing her with the service she expected.

Chargeback is a voluntary scheme run by the card scheme provider (so in this case, Mastercard) and Santander is bound by the card scheme provider's rules. There is no right to a chargeback. It's for Santander to decide whether it has a basis upon which it can raise a chargeback claim its customer's behalf. It does so by taking into consideration the scheme provider's rules and looking at the evidence to see if the claim has any prospect of success. The scheme rules set out a range of categories in which a dispute can be raised.

Unfortunately, these only cover gambling transactions in very limited circumstances. The evidence shows these were not duplicated transactions, were money was taken twice in error one immediately after another, but rather multiple authorised transactions for different amounts over a number of days. On this basis the chargeback request was declined.

It's important to say that Ms D has brought her complaint against Santander and so I'm only considering if Santander has done anything wrong in terms of its consideration of Ms D's chargeback request. I'm persuaded Santander acted swiftly to raise the chargeback and responded fairly and reasonably based on the evidence provided.

I've then gone on to consider whether this transaction should have been blocked by Santander.

I can see that Ms D has had previous transactions refunded, but I am only considering the merits of this complaint – that is to say whether the payments to "S" should have been blocked.

The block Ms D had requested, although applied in error to another account was for subscriptions. Subscription block generally apply to debit card payments, whereas gambling transactions are recorded as cash transactions. Santander has asked Ms D to provide the dates of telephone conversations she has had where a Santander representative has said gambling transactions would be blocked or a refund provided. To date Ms D has not been able to provide this information and so in its absence I have looked at the wider circumstances to reach a view on what has more likely occurred.

I have looked at Ms D's bank statements and I can see that the transaction is registered against "S" but there is nothing to identify this supplier as a gambling institution. Even if it had, Ms D would have needed to provide specific permission for Santander to apply a block on all gambling transactions, as detailed in their final response. Ms D had not done so and has continued to transact at "S" after the disputed transactions occurred. So, I'm not persuaded Santander would have been able to identify this transaction as one Ms D would want blocked nor has any permissions been given to do so – this means I can't fairly hold Santander responsible for multiple transactions Ms D authorised despite subsequently stating the machine she used was faulty.

I appreciate Ms D will be disappointed. I'm sorry to hear she has said she is struggling financially and hasn't been in the best of health but I'm not able to say Santander has acted unfairly in the circumstances of this complaint and so I won't be upholding it.

### **My final decision**

For the reasons I have given I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 17 January 2023.

Wendy Steele

**Ombudsman**