

The complaint

Mr B is unhappy that Santander UK Plc won't refund money he says he lost to a scam.

What happened

It is undisputed that Mr B's Santander debit card was used in connection with a transaction which took place on 30 September 2022. The amount of the transaction was £584.25. It was one of five transactions which were attempted around that time, three before and one after, (the others having been declined) and was to the benefit of what appears to be a travel company.

Mr B contacted Santander the same day as the payment and said that he believed that the transaction, as well as a separate payment, had been carried out by a third party without his knowledge or authority.

A couple of weeks later he said that he'd actually been trying to book flight tickets using a firm that he'd previously booked with but had ended up speaking to someone else.

He says that he provided the person he spoke to with his card details. They said they tried to process a payment but it didn't go through. He was asked for, and provided, 'authorisation' numbers (likely one-time passcodes issued by Santander). At some point during the call, Mr B said that he had to go and would call back the following day. But when he finished work he noticed both that Santander had tried to contact him and the transaction in dispute.

He said that he later got back in touch with the caller and was told to visit its business premises in person to receive a refund. He says he went to its offices in two different cities but each time he found an 'empty lot' and no travel company. Eventually, he said, the caller told him that they'd defrauded him.

Santander said that it could not provide a refund because he authorised the payment. He referred the matter to our service and one of our Investigators didn't uphold his complaint. They were satisfied that Mr B authorised the payment, Santander wouldn't have found anything unusual or suspicious about it, or the payments around it, and didn't think it had made a mistake by declining to try and recover the payment through the chargeback scheme.

Mr B didn't agree, so the complaint was passed to me for a final 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.

The starting point in law is that Mr B is responsible for payments he's authorised himself. In this case, Mr B seems to accept that he did authorise the payments. He gave over his card details and, it appears, at least one one-time passcode. I understand that he did so

believing that he was authorising a payment. So, I'm satisfied that Mr B consented to the payment taking place and the starting point is that he is liable for it.

It's unclear to me who Mr B was actually speaking to. Several payments were attempted with the recipients being three different, seemingly legitimate, travel companies. While the travel company which debited his account does have overwhelmingly negative reviews (mostly regarding charges for changing flights or failing to provide refunds), it appears to be the limited company operating a seemingly reputable travel business and website with a very significant number of positive reviews. The other two firms recorded as recipients for the failed payments also appear to be long established travel firms.

But, Mr B implies that the person he spoke to impersonated a different travel company and, when he later contacted it, it promised him a refund if he travelled to their premises, first in his home city and then another city hundreds of miles away, before admitting they were defrauding him.

Those clearly aren't the actions of a legitimate firm but it's odd that the name of a genuine travel company would appear on his statement, in exactly the same form as its full legal name, if that wasn't who he was dealing with. It's possible that the person he spoke to used his card to attempt purchases with various legitimate travel companies, though this method of fraud would be, in my experience, highly unusual.

Had Santander disputed the payment through the chargeback scheme then it would be clear whether the genuine travel company which appeared on his statement or someone impersonating it was behind the payment. But, I don't think Santander acted unfairly when it didn't raise a chargeback. Mr B initially gave an entirely different version of events – that a third party was responsible for the transaction. Where fraud is alleged, but a transaction has been authenticated using two factor authentication (a one-time passcode, in this case) there would be no rights to raise a chargeback.

When, a few weeks later, Mr B said that the payment was actually in relation to flight tickets, Santander might have attempted a chargeback but, again, I don't think it acted unfairly by not doing so. The dispute still seemed to be about whether Mr B had given permission for the transaction to take place rather than a dispute about whether the tickets were provided. And, on the facts, it was apparent Mr B had authorised the payment himself.

So, while frustrating, I don't think Santander made an error when it didn't raise a chargeback in relation to the tickets.

I've also considered whether, taking into account regulators' rules and guidance, relevant codes of practice and what I consider to be good industry practice at the time this payment was made, whether, fairly and reasonably, Santander ought to have recognised that Mr B was at risk of financial harm from fraud.

I recognise that there were several payments attempted in quick succession to various different merchants. And it appears that Santander did try to contact Mr B about the activity that had taken place, though seemingly after the event. But I don't think the activity suggested Mr B was at heightened risk of falling victim to a scam such that Santander ought to have intervened and questioned the payments. The companies that were attempting to debit his account would have all appeared to be legitimate and the payments were declined because there were insufficient funds in the account. I don't think this activity is consistent with a scam and Santander would have known that the payments were authenticated using one-time passcodes, making it very unlikely that anyone other than Mr B was authorising them. So, I don't think it acted unfairly by not questioning the payment in dispute before it debited Mr B's account.

Overall, I'm sorry that Mr B has lost out, but I don't think that Santander have made a mistake by declining to refund his loss.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 24 November 2023.

Rich Drury
Ombudsman