

## **The complaint**

Mr S complains Santander UK Plc unfairly refused to refund him unauthorised transactions on his credit card account.

## **What happened**

Mr S contacted Santander in early December 2022 explaining he had noted transactions on his credit card account that he didn't make. These comprised of six transactions in total – three were cash withdrawals and the remaining three were chip and PIN transactions with merchants. The transactions occurred between 30 November 2022 and 2 December 2022 and totalled £2,561.94.

Santander carried out a review of Mr S's claim. During this review Mr S explained he left his card behind in a shop and his PIN may have been seen by a third party when he entered it in to make a purchase. Mr S also said the PIN could've been picked up by the CCTV. Santander considered Mr S's comments alongside the transactions and declined the claim. It explained it couldn't see any plausible situation in which Mr S's PIN could've been compromised. It also explained it could see some credits from one of the merchants in question, and if Mr S had any issues it should contact the merchant directly.

Mr S was dissatisfied with Santander's response and referred his complaint to our service.

An Investigator reviewed Mr S's complaint and found that Santander had acted reasonably. They explained that based on the available evidence they thought it most likely Mr S authorised the transactions or authorised someone to make them on his behalf.

Unhappy with the Investigator's review, Mr S asked for his complaint to be reviewed by an ombudsman.

## **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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider good industry practice at the relevant time.

Having looked at the complaint fully, my review of the evidence has led me to the same overall conclusions as the Investigator previously set out and for much the same reasons. I will explain why.

Under the relevant regulations – the Payment Services Regulations 2017, Mr S is liable for transactions he has authorised – either by carrying them out himself or giving permission for another party to carry them out on her behalf. The PSRs 2017 also set out that where a payment isn't authorised by the account holder, they may still be liable for it if they've failed

with intent or gross negligence to adhere to the terms of their account or keep their personalised security credentials safe.

Santander has considered Mr S's testimony alongside the technical information it holds about Mr S's account and the transactions to reach the view that Mr S has authorised the transactions. I can't say with certainty how the transactions took place, but I must decide whether Nationwide concluding that Mr S most likely authorised the payments he is disputing, based on the information available to them, is fair.

I can see that as a starting point Santander has considered Mr S's testimony around the events at the time of the transactions. I can see from Santander's contact notes that Mr S initially reported that his card had been captured at an ATM. During another call Mr S then explained the card had been lost or stolen. The disputed transactions were all authorised using chip and PIN, so there still remained questions around how Mr S's PIN was compromised. Mr S explained the PIN may have been seen by a third party when he entered it into a device in a shop, as this was a large iPad. Mr S also says the CCTV could've picked up his PIN as he entered it.

I've considered Mr S's comments, but I am not persuaded there is enough consistency and detail in his account of events. If Mr S's card had been taken at this time and his PIN noted I would've expected there to be an immediate use of his card. However, it appears there is almost a three-hour gap between Mr S using his card in this shop and the first transaction Mr S has disputed.

The transactions were also spread out over a 4-day period, and I have to keep in mind this pattern doesn't match what is typically seen in cases of unauthorised use. Usually if a third party somehow obtains a card, they spend the available credit quickly to maximise their gain before the card is reported lost or stolen. The transactions in Mr S's case vary in value and appear to take place at very different times of day. It seems implausible that an unknown third party would've taken these risks to carry out the transactions in this manner.

I have to also consider the fact Mr S had access to online banking on his device. The transactions would've appeared on his account, and Santander's online log in data shows Mr S accessed his account online during the period in question, allowing him to review the activity on his account. Mr S reported his card stolen on 3 December 2022, and logged a fraud claim on 5 December 2022. Given Mr S had been accessing his online account regularly I would've expected him to pick up on these transactions sooner than he did.

I am also mindful of the nature of some of the transactions Mr S says were unauthorised. It appears Mr S's business is linked to hair and beauty, and two of the unauthorised transactions relate to the same industry. Statements provided from Santander of Mr S's current account also show there to be numerous credits in from the same merchant. I think it's highly unlikely an unknown third party would make transactions so closely linked to Mr S's existing transactions, on a separate account.

In response to the Investigator's review Mr S has raised concerns regarding the systems in place at Santander for detecting the fraud. Mr S says he only ever used his credit card for small transactions. I appreciate Mr S's comments, and I can see his credit card was used for general everyday spending. However, the disputed transactions were all authorised using Mr S's card and PIN, which wouldn't have necessarily alerted Santander to any unusual activity. Santander has also confirmed that two purchases were stopped on Mr S's account, and at this stage Santander contacted Mr S but no response was received. Santander has explained its system wouldn't necessarily block Mr S's card at this stage, and a number of triggers would need to be met in order for this to occur. So I can't see that Santander acted unreasonably here.

Overall, having considered everything, all of the available evidence points to it being more likely than not that Mr S provided authority for the transactions. I realise that this is not the outcome Mr S was hoping for, and he will be disappointed by the decision I've reached. As such, I cannot fairly and reasonably require Santander to take any further action in relation to this matter.

### **My final decision**

For the reasons explained above, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 February 2024.

Chandni Green  
**Ombudsman**