

The complaint

Mrs F complains that Santander Consumer (UK) Plc are unreasonably pursuing her for a debt she believes she does not owe.

What happened

Mrs F is unhappy that Santander wrote to her on 26 April 2023 terminating her agreement and telling her that she needed to pay back £12,651.

Mrs F entered into a conditional sale agreement in October 2019 for a used car. The agreement was for £30,104 over four years; with 48 monthly repayments of £416 and a final repayment of £7,168.

She said that in September 2022 she returned that car and entered into a new agreement for another car.

She said that in October 2022 Santander refunded an over payment of £416. And in November 2022 they refunded another amount of £11,907. She said that Santander confirmed both refunds by letter, and they said that the agreement was settled.

In January 2023 Mrs F received a letter from Santander advising her that the refund of £11,907 had been made in error and that she had to pay it back. She said she tried to contact Santander as she couldn't understand why she owed the money and to tell them she could not afford to repay this large amount.

In February 2023 she received a default notice informing her she had to pay arrears totalling £2,117. She said she didn't know where Santander had got this figure from.

In March 2023 she received another default notice, this time saying the arrears were now £2,533.

In March 2023 she received a response from Santander explaining the overpayment. She said she was told that the car dealer had paid Santander twice and they had mistakenly refunded her, not the dealer.

She said she was then contacted by third party debt collectors. She explained to them that the agreement had been settled and she no longer had the car. She then received the letter in April 2023 terminating the agreement.

She's unhappy that despite numerous phone calls and requests, Santander have not been able to explain to her why she owes this money, or how the arrears have been calculated.

Santander said Mrs F contacted them at the end of September 2022 to request a settlement figure as she was trading in her car. The settlement figure was £11,907.

They said they received two payments of £11,907 on 1 October 2022 from the dealer. In line with their policy, they said they returned the overpayment of £11,907 to Mrs F. They said

they only realised the mistake when they were contacted by the dealer on 20 October 2022 , informing them it had made a double payment and hadn't received the overpaid amount from Santander.

They didn't uphold Mrs F's complaint. They said she still owed them the overpaid amount of £11,907.

Unhappy with Santander's response, Mrs F brought her complaint to this service.

Our investigator looked into the complaint. She didn't uphold Mrs F's complaint. She said that Santander had acted fairly and provided evidence showing they had attempted to discuss the arrears on several occasions with Mrs F. She said that Mrs F needed to pay the funds back to Santander as the money wasn't hers.

Mrs F didn't agree with the outcome. She said it didn't recognise the length of time it has taken to resolve the issue. She said she wasn't aware there had been an error when the money appeared in her account – she said she trusted Santander, believing they knew what they were doing. She said she'd made multiple attempts to resolve the matter, but Santander had threatened to take her to court, causing her distress.

So the matter has been 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.

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Having done so, I have reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time. Mrs F was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

The crux of this complaint is whether or not Mrs F should repay the amount refunded to her in error by Santander.

There's no dispute that Santander made a mistake. The initial error was made by the dealer, making two payments of £11,907.61 instead of just one to Santander when settling Mrs F's conditional sale agreement. But instead of returning this to the dealer, Santander paid it to Mrs F.

Mrs F doesn't dispute receiving the money. But she says she trusted Santander to know what they were doing. She said she received a letter stating that the agreement was settled so didn't think anything was wrong. So it appears at that point she accepted the money without question.

My starting point is that despite Santander's error, the money belongs to them. Mrs F may or may not have been uncertain why the money was paid into her account. But the amount was

significant: more than £11,000. With an unexpected windfall of this magnitude I'd would've expected her to contact Santander and query the transaction.

The money does not belong to Mrs F, and she has no right to keep it. So I find that she must repay £11,907.61 to Santander.

But they should only ask Mrs F for the overpaid amount. I don't think it's fair at this time to charge late payment fees or interest on the overpaid amount. But they may revisit that if no payment is made and formal debt collection action is necessary.

I don't doubt that Mrs F made several attempts over the following months to contact Santander about the overpayment. But this was only after Santander wrote to her in January 2023. And it appears that she contacted them to express her anger and disappointment at being asked to repay the overpaid amount, and what she felt was the unnecessary tone of Santander's communication – including escalating the collection to a third party. I can't see that she's ever offered to repay the money to Santander.

I'm satisfied that Santander acted reasonably. They wrote to Mrs F on several occasions and advised her in calls what she needed to do. She's aware of how the mistake occurred and they informed her that a marker would stay on her credit file until the payment was made.

I don't doubt it was upsetting for Mrs F to receive letters threatening legal action. But the money was never hers, and it would be wrong to allow her to benefit from the sum of more than £11,000, just because of an error by the bank.

As our investigator said, we would expect an immediate refund, plus compensation, if Santander took £11,000 from her account and didn't repay it.

Santander said they will remove the adverse credit markings when the overpayment is repaid to them. I think that's reasonable, and I won't be asking them to do anything more.

My final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 10 May 2024.

Gordon Ramsay
Ombudsman