

The complaint

Mrs S has complained Santander UK plc won't refund money for two transactions on a credit card that weren't authorised.

What happened

Mrs S is the main cardholder on a credit card account with Santander. Her husband, Mr S, is a secondary cardholder. His card, ending 5430, is where the fraud occurred. I will refer to him throughout for ease.

In April Mr S received a text explaining he'd need to pay £1.50 to release a parcel from Royal Mail. As he was expecting something from overseas, he arranged to do this. Very shortly afterwards he received a text from Santander alerting him to suspicious activity on his credit card.

After calling Santander, he confirmed two transactions that weren't his and was told as they hadn't been processed, they would be returned. This didn't happen. Mr S complained to Santander that he'd not made these transactions. Santander believed their evidence showed Mr S had authorised these transactions within his Santander app.

Mr S brought Mrs S's complaint to the ombudsman service. Our investigator felt the evidence Santander provided to us wasn't clear despite questioning Santander carefully about what certain aspects meant. On the other hand Mr S's evidence was clear that he'd been a victim of a scam and she could identify a clear point of compromise. She asked Santander to refund the transactions debited to Mr S's credit card.

Santander disagreed and provided further evidence. In light of the continued disagreement, an ombudsman has been asked to make a 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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

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 to have been good industry practice at the relevant time.

The regulations which are relevant to Mrs S's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence Santander provided as well as what Mr S has told us.

I believe these transactions were carried out by a third party and not Mr S. I say this because:

- Mr S has shown us the text he received about having to pay £1.50 to Royal Mail. In making this payment, I believe a third party was able to obtain Mr S's credit card details along with sufficient other information to be used to carry out two disputed online transactions.
- Santander has provided us with evidence they claim shows Mr S approved these transactions using the Santander app. This process – like most third-party authentication processes for card payments – depend on the merchant using the required method of authentication. If these were disputed transactions, I wonder whether the merchant was able to simulate authentication although I admit the evidence is not clear on this.
- Mr S vehemently denies having authenticated these transactions using his app. I have to wonder why he would authenticate two transactions for over £430 each carried out on an overseas website when, as I believe all parties agree, Mr S didn't make the payments.
- There are two clear parts to authorisation under the PSRs: authentication and consent. There's nothing in Mrs S's credit card terms and conditions which would contradict this. I've seen no evidence to show Mr S consented to these two disputed transactions. In fact any evidence there is about where these transactions were made suggest the use of an overseas IP address.
- Santander's own complaint notes state *"if possible that consumer has been socially engineered, and wasn't aware of the payment, claim should be upheld"*. I'm disappointed they didn't follow their own processes when the social engineering aspect to this seems clear to me.

Putting things right

As I'm satisfied there is insufficient evidence to show Mr S authorised these two transactions, Santander will need to re-credit Mrs S's credit card account for the two disputed sums of £535.87 and £439.05, along with any associated fees or charges, including interest.

Santander did not provide us with statements, so I don't know whether Mrs S paid her credit card bill in full by 24 May 2023 or, in light of the disputed transactions, only paid what she believed was owed.

If Mrs S paid the bill in full, Santander will also need to pay 8% simple interest on £974.92 from the date of payment until the date of settlement.

My final decision

For the reasons given, my final decision is to instruct Santander UK plc to:

- Rework Mrs S's credit card account to show the two disputed transactions were not authorised, ensuring that there are no fees, charges or interest related to these two transactions; and

- Pay 8% simple interest on £974.92 to Mrs S if she paid the credit card bill in full by the due date in May 2023.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 11 December 2023.

Sandra Quinn
Ombudsman