

The complaint

Miss W complains that Santander UK Plc won't refund £2,055.22 she lost to a scam.

What happened

Miss W has said that in early 2023 she looked online for three return flights to Jamaica to attend her brother's funeral. She contacted who she believed to be a representative from a travel company (the company) via WhatsApp, and on 25 January 2023 she made a payment with her debit card over the telephone to the company for £2,055.22 for flights for her and two others. She was sent a flight itinerary confirming three flights to Jamaica.

On looking at the itinerary, Miss W had some concerns about the return flight and contacted the representative again via WhatsApp. She was worried about the legitimacy of the flight tickets and wanted a refund. She didn't attempt to use the tickets she'd purchased via the company, and instead purchased three more tickets with another travel company and travelled to Jamaica on 3 February 2023.

When no refund was forthcoming from the company, Miss W contacted Santander and it raised a chargeback claim. Santander wrote to Miss W and said:

'Your claim hasn't been successful because the company has presented information to show that the service was correctly provided. This means you don't have a valid claim'.

Miss W complained to Santander. It maintained that it couldn't provide Miss W with a refund as the company had defended the claim, and provided the relevant information required under the chargeback scheme rules to remedy the chargeback dispute.

Unhappy with Santander's response, Miss W complained to the Financial Ombudsman.

One of our Investigators considered the complaint but didn't uphold it. In short, she said Miss W was liable for the payment as she'd authorised it. She also found that there was nothing about the payment that would've alerted Santander to the possibility this was scam. In terms of the chargeback, our Investigator was satisfied that the company had evidenced it had provided the service it had been paid for. And so, she didn't think Santander needed to do anything more to resolve this complaint.

Santander accepted our Investigator's findings. Miss W didn't agree, and so the case has been passed to me to decide.

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 agree with the conclusions reached by the Investigator, and for largely the same reasons. I'll explain why.

But first, I'd like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I've not addressed; it isn't because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint – that being whether Santander has acted reasonably in not refunding the £2,055.22 to Miss W.

It isn't in dispute that Miss W authorised the disputed payment for £2,055.22. The payment was requested by her using her legitimate security credentials provided by Santander, and the starting position is that Santander ought to follow the instructions given by their customers.

However, I've considered whether Santander should've done more to prevent Miss W's loss, and if it has acted fairly when assisting her with the recovery of those funds.

Could Santander have prevented the loss?

I've looked first at whether Santander should've identified the £2,055.22 as unusual or out of character and questioned Miss W about it.

It's not unusual for a customer to make a larger one-off payment as part of normal account activity. And although I can see that the £2,055.22 payment was larger than other payments made by Miss W in the previous 12 months – it's not a significantly high amount that I think should've reasonably prompted Santander to intervene.

Furthermore, I can see that Santander questioned Miss W about another transaction she tried to make to the company just prior to the £2,055.22 payment. And on listening to the telephone conversation between Santander and Miss W – there's nothing Miss W said that I think would've likely alerted Santander to the fact she was falling victim to a possible scam.

During the call Miss W confirmed it was her making the payment and that it was for flights to Jamaica. She had no reason to doubt the legitimacy of the flight tickets at this time. She was also paying a legitimate company on which there was nothing in the public domain to suggest any links to a scam.

And so, I can't say Santander did anything wrong here in not providing any scam warnings to Miss W or in not speaking to her again when she made the £2,055.22. And even if it had given her a general scam warning - which would've been all that reasonably could've been expected – I think it's unlikely that this would've prevented Miss W from going ahead with the payment.

Recovery

Because the payment had been made using Miss W's debit card, Santander raised a chargeback claim. This was done correctly under the chargeback code which included claims where the goods purchased were not as described – essentially this is used when a customer feels the end result of a transaction was provably different than promised.

When the company defended the chargeback claim – it was able to provide evidence that Miss W's card details and billing address were used to purchase two non-refundable flight tickets that were used by two third parties. So, from a chargeback perspective, the evidence provided by the company satisfied the requirements of the scheme rules. Miss W's claim was therefore declined, and the funds remained with the company.

Under the chargeback rules, Santander could've asked for the chargeback to be taken to arbitration – whereby the card scheme decides whether to find in favour of Miss W. And so, I've thought about whether Santander should've taken this approach in Miss W's case.

Based on the events, as described by Miss W, it appears as though she may have been tricked by a third party into believing that the payment was for three tickets to Jamaica. But as I've said above, the company was able to provide compelling evidence that the payment it received, using Miss W's legitimate card details, was for two flight tickets that were used.

And so, I don't think Santander's decision to not take the claim to arbitration in these particular circumstances was unfair or unreasonable. I say this because based on the evidence I've seen, Miss W's claim did not have a reasonable prospect of success at arbitration, and if the company was to have defended the claim successfully, Santander could've also incurred further costs.

I appreciate this outcome will likely come as a disappointment to Miss W. However, in the circumstances, I do not consider it would be fair and reasonable to hold Santander liable for her loss.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision **before 16 February 2024**.

Anna Jackson
Ombudsman