

The complaint

Mr R says Santander UK PLC (Santander) refuses to refund him for a transaction on his account he says he didn't make.

What happened

The facts of the case are well known to both parties, so I won't go into detail here.

In summary, Mr R says he wasn't responsible for an ATM withdrawal on 18 July 2023 for £300. He says he had a seizure at an ATM and his phone and wallet were stolen.

Santander says the transaction in dispute was carried out using Mr R's actual card and PIN, and they were not satisfied that there was a point of compromise of Mr R's PIN. So, Santander decided this transaction was authorised.

Our investigator considered all the evidence in this complaint and decided not to uphold it. Mr R wasn't happy with this outcome, so the complaint has been passed to me for 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.

On the outset, I would like to state that I understand Mr R has suffered difficulties recently and a close family loss. I am sorry to hear about his recent troubles. But I wanted to reassure Mr R that I have read and considered everything he has said, alongside the other evidence provided.

Where there's a dispute about what happened, and the evidence is incomplete or contradictory, I must make my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence.

Generally speaking, Santander is required to refund any unauthorised payments made from Mr R's account. Those rules are set out in the Payment Service Regulations 2017. Mr R has said he didn't carry out the transactions in dispute, but Santander says it thinks he did. I've considered the evidence from both sides, and I've come to decision based on what I think is more likely.

The transaction in dispute was an ATM cash withdrawal – this means Mr R's actual card and PIN were used. Mr R says his card was stolen while he was having a seizure at the ATM. This explains how someone else could've had access to his card. However, the evidence about how someone could've obtained Mr R's PIN has been inconsistent. Mr R first told us that his PIN was stored in his phone and as this wasn't a smart phone, it was not passcode protected. However, more recently Mr R says he was shoulder surfed when at the ATM. But there is no evidence that Mr R used the ATM before the disputed transaction, so it wouldn't have been possible for someone to see his PIN in this way. Santander have also provided

evidence to show that there were no incorrect PIN attempts immediately prior to the disputed transaction. So, I've not seen any evidence to suggest there was an opportunity for someone to shoulder surf Mr R.

Overall, I am not persuaded by what Mr R has said, so it follows then that I am not persuaded that his PIN was compromised. So, without stronger evidence that Mr R's PIN was compromised I think it's more likely Mr R carried out this transaction himself.

Santander have also provided evidence that Mr R has raised identical complaints of fraud before this instance and after this incident. This doesn't mean that it's not possible to happen more than once, however, it's less likely. I also think if this had happened to Mr R previously he would've changed the way he managed his account going forward, for example, disguising his PIN in some encrypted way on his phone or having someone assist him when visiting an ATM.

I know this outcome will come as a disappointment to Mr R, but I've not been persuaded that this transaction was authorised, and so I am not upholding this complaint.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 8 May 2024.

Sienna Mahboobani
Ombudsman