

The complaint

Mr Z complains that Santander UK Plc hasn't refunded him after he fell victim to a property rental scam.

What happened

Mr Z was looking for a place for to live with his partner in December 2023. He's said they were desperate to move as they'd been living in hotels and with family for a while.

He found an advert for a three-bedroom house on social media. It was in the area he was looking for and the price of £850/month appealed so he contacted the advertiser. What Mr Z didn't know at the time is that he was communicating with a scammer who had posted a fake advertisement.

Mr Z was told the property would be available from 18 December 2023. That move-in date suited Mr Z and he asked about viewing the property. The scammer told Mr Z he could either be sent a video for a virtual viewing or wait until 18 December 2023 to visit the property to see it in person.

He watched the video tour and wanted to put down a deposit to secure the property. He sent identification and proof of income to the scammer. He replied with a tenancy agreement which Mr Z went on to sign. He then sent the £850 deposit to the account he was instructed to.

That account wasn't in the name of the advertiser. Mr Z was told the account was held by the joint landlord. The name did appear on the tenancy agreement Mr Z had been sent.

Mr Z went to move into the property on 18 December 2023. It was then he discovered he'd been scammed. The address didn't match the advert and he discovered there were people living at the property. He reported the scam to Santander and asked it to refund his loss.

Santander considered what had happened and said it wouldn't refund Mr Z. It said it had given warnings about property scams at the point Mr Z made the payment. It also felt he didn't hold a reasonable basis for believing the rental was genuine, having not carried out sufficient checks to establish its legitimacy.

Santander contacted the bank the money was sent to in an attempt to recover it. But they were told the money had already gone and there was nothing to return.

Mr Z was unhappy with Santander's response and so brought his complaint to this service. One of our investigators considered all the circumstances but found Santander had acted fairly and reasonably. She noted:

- The cost for the advertised property appeared too good to be true, being significantly below comparable market value. She said this ought to have made Mr Z suspicious of the offering from the outset;
- She didn't think it was reasonable for the deposit of £850 to have been paid without having a proper viewing, especially as the property was only a short drive from where Mr Z was staying;
- There was no evidence of any other checks conducted by Mr Z to verify the parties involved or their right to rent the property.

Mr Z didn't agree and so the complaint 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.

I'm sorry to disappoint Mr Z further but I'm not upholding his complaint. I know that will be upsetting news as I know his circumstances have been difficult. I've no doubt here that he's been the innocent victim of a scam and I know this will have had a significant impact on him – financially, emotionally, and mentally. But I can't say Santander have acted unfairly or unreasonably in declining to reimburse him.

The starting point at law is that Mr Z is responsible for all transactions made from his account which are properly authorised by him. This position is set out in the Payment Service Regulations (2017) and is confirmed in his account terms and conditions.

Santander is, however, a signatory to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. The Code looks to see the victims of scams – like Mr Z – refunded by their account provider in most instances. But there are exceptions to reimbursement that a firm can choose to rely on. Santander has chosen to do so here. In considering Mr Z's complaint I've thought about whether it is fair and reasonable for Santander to rely on those exceptions. These considerations can be set out in the form of two questions:

- Did Mr Z hold a reasonable basis for believing he was transacting with legitimate parties for legitimate purposes?
- Did Mr Z ignore an effective warning given by Santander at the point he made the payment toward the scam?

I'll answer those questions in turn to demonstrate the reasoning behind the outcome I've reached.

Did Mr Z hold a reasonable basis for believing he was transacting with legitimate parties for legitimate purposes?

My findings here are broadly similar to those of our investigator and I'm not persuaded Mr Z held a reasonable basis for belief.

The first factor I've thought about is what was on offer, and whether it could be fairly and reasonably viewed as a plausible. I can't say for certain what other properties might have showed as being available at the time or at what price. But, having looked at current availability, I can't see anything similar to the three-bedroom property that Mr Z was looking at for £850/month. All comparable properties attract a significantly higher rent. And so I'm of the view the price was too good to be true and to the extent it meant the offer ought to have been viewed with suspicion. In turn it ought to have prompted a high level of checking and assurance seeking on Mr Z's part.

I'm conscious rents will likely have increased somewhat since December 2023, but it seems unlikely they would have done so by as much as would be necessary to make the price look right. And I also note Santander appears to have carried out a similar search and made a similar discovery when it was investigating Mr Z's claim.

I'm satisfied the too good to be true price meant Mr Z ought to have been looking to carry out some significant checks to verify the legitimacy of the offer. But I can't fairly say that such checks were carried out. There actually seems to be little done in terms of verification. I appreciate Mr Z has said he spoke to the advertiser on the phone and checked for a social media profile of the payee, but this will have done little to confirm the legitimacy of the

parties or their right to rent out the property. I can't see proof of ownership, identification, or anything of that nature was requested or provided.

There's also not really anything to connect the payee to the property. The only thing I can see is that the same name appears on the bank account and the tenancy agreement. But this wouldn't have really verified anything, given the tenancy agreement could have had anyone's details added.

I consider a significant factor here to be that the property wasn't viewed before payment was made. I know a video viewing was watched. But the property wasn't physically visited, despite how close it was to Mr Z.

The scammer seems to have said that there were existing tenants still at the property. But it's common practice for new tenants to view a property whilst existing ones are still there. There doesn't seem to have been any reason given – and no challenge raised by Mr Z – about why a viewing wasn't possible. Instead, Mr Z appears to have been very eager to press ahead as soon as possible, even without a physical viewing.

I accept the contract looked genuine and I don't doubt the video also seemed convincing. Some of the process for securing the property would have felt normal to Mr Z. But, with all the above in mind, I'm not persuaded Mr Z carried out a proportionate level of checks to ensure the property on offer and parties involved were genuine. And so I can't say he held a reasonable basis for believing everything was legitimate.

Did Mr Z ignore an effective warning given by Santander at the point he made the payment toward the scam?

The Code states that a firm like Santander ought to deliver an effective warning when a scam risk is detected. The Code defines what is meant by an effective warning. But one needn't be delivered every time a payment is made. If it can be fairly and reasonably said that a scam risk wasn't evident, then a firm might not give a warning.

Here, Mr Z's payment was of a relatively low value. That's not to say it isn't a significant sum for Mr Z to lose. But the value doesn't stand out as unusual or inherently risky. And so I'm not persuaded Santander had to present a warning. And so there's been no fault on its part in terms of intervention and warnings.

I am mindful here that Santander did present a warning when Mr Z made the payment. But because of the findings I've described above, it did all it needed to. I'm then not going on to assess the content of that warning and whether it meets the CRM Code's definition of what an effective warning looks like. And there's also no need for me to consider whether Mr Z ignored it or not.

Should Mr Z be considered vulnerable under the CRM Code?

The Code states that a customer might still be entitled to reimbursement even where the firm has shown an exception to reimbursement can be relied on. This would be when the customer was demonstrably vulnerable to the extent that they couldn't fairly and reasonably be expected to have protected themselves from the scam.

I accept Mr Z was in a vulnerable position in that he didn't have a property of his own, and he felt time pressure to move on from his accommodation at the time. I've no doubt this made him want to act quickly to secure a property. But that doesn't mean he was unable to protect himself from the scam. It isn't unreasonable to say there were steps he could have taken to protect himself and I can't see he was barred in some way from doing so.

And so I can't say Mr Z should be refunded his loss based on vulnerability and despite an exception to reimbursement applying.

Is there anything else Santander ought to have done?

I can see Santander contacted the bank the money was sent to and did so quickly. Unfortunately the funds had already been removed. That meant there was nothing more Santander could do in terms of recovery.

Having considered that, and all the other circumstances of the case, I can't see Santander has acted unfairly or unreasonably. I can't say it ought now refund Mr Z's loss.

My final decision

I don't uphold this complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 21 March 2024.

Ben Murray
Ombudsman