

The complaint

Mr B complains that Santander UK Plc won't refund payments he says he did not make.

What happened

Mr B holds a current account with Santander. In January 2023 he was overseas when he says he was injured in an accident, resulting in him being hospitalised and suffering from concussion. Mr B says that at this time his card was lost or stolen and his card details were then used by an unknown third party to make payments without his permission. Mr B says he noticed these payments when they appeared on his statements and so he got in touch with Santander to flag them as fraudulent.

Santander reviewed the disputed payments, but did not agree that there was evidence to show they had not been authorised, so it declined to refund them to Mr B, it did though pay him £75 to recognise that it had caused a short delay in reissuing his card after he told it of the fraud. Mr B was unhappy with Santander's response, he maintains that he did not make the disputed payments, he feels that Santander should refund them to him.

During his complaint, Mr B also made a request for copies of phone calls and notes regarding his case from Santander. He was also unhappy with Santander's response regarding that issue. He says he still has not been provided with the calls in an accessible format.

Our Investigator looked into what had happened. But they ultimately did not feel there was enough evidence to show that the payments had not been authorised by Mr B, so they did not recommend that Santander refund these payments. They were also satisfied that Santander had now sent the calls to Mr B in his requested format and that the £75 paid as compensation was appropriate in the circumstances of the complaint.

Mr B remained unhappy, so this case 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.

Having done so I've reached the same conclusions as our Investigator set out, and for the same reasons.

The relevant law here is the Payment Services Regulations 2017, and broadly speaking Mr B is responsible for any payments that he has authorised (either by making them himself or allowing someone else to) and he isn't responsible for unauthorised payments. So, the key question here is whether Santander has acted fairly in concluding that Mr B did authorise the disputed payments or otherwise allow them to be made.

I'm satisfied from the bank's technical evidence that Mr B's genuine card details were used to make the disputed transactions. But the regulations relevant to this case say that is not,

on its own, enough to enable Santander to hold him liable. So, I also need to think about whether the evidence suggests that it's more likely than not that Mr B consented to the payments being made.

From what I've seen, I don't think it's unreasonable for Santander to conclude that Mr B consented to the transactions.

Firstly, I note that when Mr B first raised his fraud claim with Santander he identified over 20 payments that he said were not made by him, between the 4th and 18th January 2023. He has since confirmed that it is only the last three transactions, made between the 16th and 18th January 2023, that he did not make. Two of these transactions were to a hotel – on 16th and 18th January – and one was to an airline – on 18th January.

Santander has provided us with a copy of a phone call from 18th January, during this call someone claiming to be Mr B's wife speaks to Santander about what happened to him and explains that they are trying to buy flights home but are unable to complete the required payment as Mr B's concussion means he can't remember some of his security details. This would appear to match up with the payment to an airline made that same day, which Mr B says he did not authorise.

But Mr B also talks to Santander during this call and passes their security checks. I'm also aware that Mr B and this same woman apparently also spoke to Santander about Mr B's complaint after he identified the disputed transactions. Mr B has said he does not have a wife, and we've asked him who this woman was, but he has not responded. With all of this in mind, I'm satisfied that Mr B was part of this conversation about the flights, most likely knew the woman who also spoke to Santander and gave her permission to discuss his account, and that this conversation was most likely about the payment to the airline that was made from Mr B's account that same day. So, it follows that I'm satisfied Mr B was aware of and consented to this payment.

Santander's notes also state that it was told that Mr B no longer had his physical card but did have a photo of it, and that he had been able to use that to make payments at his hotel. And it seems clear that the disputed hotel payments were to a hotel that Mr B had been staying in as there were earlier payments to the same hotel that Mr B has now confirmed he did make. I acknowledge that Mr B says he did not make these particular disputed payments, and that he paid for his hotel using a different payment method. But he's not evidenced that, and he's also not answered our investigator's questions about whether he authorised the hotel to take manual payments from his card. So, with all this in mind, I don't consider that it was unreasonable for Santander to conclude that it is more likely than not that Mr B also consented to the hotel payments being made.

So, overall, I am satisfied that Santander has not treated Mr B unfairly in declining his claim for these disputed payments.

I acknowledge that there do appear to have been some service issues in how Santander handled Mr B's concerns – specifically relating to a short delay in correctly reissuing his card. But I'm satisfied that the £75 compensation Santander has already paid regarding this issue is appropriate compensation for any failings. I also note what Mr B has said about the phone calls and fraud notes that he requested, but I am satisfied that Santander has now sent the calls to Mr B in the format he requested.

I know this will be very disappointing for Mr B, but I am satisfied Santander has treated him fairly, so I won't be asking it to do anything more.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 May 2024.

Sophie Mitchell
Ombudsman