

## **The complaint**

Mr R complains that Santander UK Plc transferred money out of his account without his permission.

## **What happened**

Mr R received the following faster payments from someone he knows ('the beneficiary') into his Santander account:

- £150 on 6 September 2023
- £150 on 13 September 2023
- £150 on 20 September 2023

The beneficiary approached their banking provider requesting that it recalls the funds from Santander on the grounds the payments were made as a 'Bank Error'.

On 20 September 2023, Mr R returned £450 to the beneficiary via faster payment from his Santander account.

Santander wrote to Mr R on 2 October 2023 and 11 October 2023 explaining that the funds were paid into his account and asked that he get in touch with it. The letter of 11 October 2023 explains that Santander had protected £82.79 available in Mr R's account. It explained that if Mr R doesn't get in touch with it within 7 working days from the date of the letter, it will return the money it has protected to the beneficiary's account provider in 15 working days. It also advised that it would check Mr R's account again to see if any further funds were available before sending the funds back. Santander said it didn't hear from Mr R in response to its letters.

On 23 October 2023 Santander returned the payment of £450 to the beneficiary's banking provider. It said it reviewed the payment of £450 he'd sent on 20 September 2023 however noted it was made to different account details from that where the payment came from. Mr R complained to Santander and it paid him a total of £220 compensation for the way it handled matters.

Mr R received £300 from the beneficiary on 13 December 2023 but Santander refuses to refund the remaining £150 on the grounds that it followed its processes.

One of our Investigators upheld Mr R's complaint and suggested that Santander returns £150 to him. Santander didn't agree so the complaint has been passed to me for determination.

## **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 uphold this complaint in part.

Santander relies on its terms and conditions and the credit recovery process as its rationale for returning the beneficiary's funds.

Santander's terms and conditions state:

*'If we reasonably believe the bank or sender who made the payment made a mistake, and they tell us in 2 months after they've made the payment, we might stop you from using the money. We can take it out of your account to return it to the bank who sent it'.*

In my judgement, Santander's terms and conditions don't say that it *will* return payments in every instance. It said it 'can' do so if it reasonably believes a mistake has been made. In Mr R's case, the beneficiary made payments of £150, every week for three weeks. Mr R had also received money from the beneficiary in August 2023 which wasn't disputed. This doesn't appear to be a mistake on the face of it and there is no additional evidence that would support this was a mistake or bank error.

The Payment Services Regulations (2017) applicable here say that a payment service provider should take 'reasonable steps' to recover funds that have been mistakenly applied to an account. But reasonable steps will depend on the circumstances.

In 2020, Faster Payments announced new procedures to help customers who make payments in error. They set out timeframes for investigating mistakes and for returning payments. The new guidelines apply where:

- A customer has made a payment in error;
- There's clear evidence of a genuine mistake;
- The recipient doesn't dispute what happened; and
- The money's still available

Again, I don't think there is sufficient evidence that would demonstrate that three payments evenly spaced apart over the course of three weeks from an account that had paid Mr R before were made in error or by mistake. But even if I were to accept that Santander had reasonable grounds to believe the payments were made in error or by genuine mistake, Santander accepts it reviewed Mr R's account in absence of his response to its letters prior to returning the payment. It said it specifically reviewed the payment of £450 that he made on 20 September 2023 but returned the payment anyway. Although this payment was sent to a different account, Santander should have reasonably identified that the exact amount in dispute was sent to the beneficiary. The reference for the payment was 'payback' and it was made shortly after the final payment from the beneficiary was received and around the time that Santander heard from the beneficiary's banking provider.

Upon reviewing Mr R's account, I think Santander should have reasonably concluded that the funds had already been returned by him. Even if Santander wasn't completely satisfied of this, it could have queried this with the beneficiary's banking provider. Had it done so, I think the beneficiary's banking provider would have likely made contact with the beneficiary to confirm the funds had been returned.

I've noted that Santander made attempts to recover this money via the beneficiary's banking provider but was unable to. The beneficiary did return £300 to Mr R but it means he's out of pocket by £150 and I think this was avoidable had Santander taken the appropriate care over this matter. Santander should therefore return Mr R's loss of £150 together with interest.

Santander initially paid Mr R £120 compensation for; its poor service, time taken to resolve the matter with Mr R not having access to his funds and what it initially accepted as a mistake on its part. Santander then paid a further £100 by way of an apology for what it called a 'time-consuming process'. Mr R has received a total of £220 compensation. It's clear that Mr R had to chase Santander multiple times about this matter and could not be given a timescale for when he'd receive his money back, which I think caused him inconvenience. The matter was ongoing for almost two months before Mr R received any of his money back. I think Mr R being without this money for what Santander initially accepted as its mistake would have been distressing for him - especially as it was a difficult time personally for Mr R. But I do think the total compensation paid by Santander was fair and reasonable under the circumstances and recognises the distress and inconvenience caused. I appreciate that Mr R doesn't feel Santander's compensation is adequate but for the reasons I've explained, I think it is and I make no further award on the matter of compensation.

### **My final decision**

My final decision is that I uphold this complaint in part. Santander UK Plc should:

- Refund Mr R £150.
- Pay 8% simple interest per year on the above amount from the date Santander debited Mr R's account to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 19 July 2024.

Dolores Njemanze  
**Ombudsman**