

The complaint

Mr B complains that Santander UK plc won't refund to him the money that he paid for some holiday services.

What happened

I issued a provisional decision on this complaint in June 2024 in which I described what had happened as follows:

"Mr B entered into an accommodation contract with a supplier (the "Accommodation Supplier") in January 2019 to subscribe for four weeks of holiday accommodation. The contract said that the purchase price was £1,250 and Mr B used his Santander credit card to make payments of £248.68, £248.69, £248.70, £248.71 and £248.72 (totalling £1,243.50 and all made on the same day) to the Accommodation Supplier.

Mr B also entered into a subscription agreement with another supplier (the "Subscription Supplier") in February 2019 to subscribe for some other holiday services. The agreement said that the price for those services was £10,750 but Mr B made a bank transfer of £10,710 to the Subscription Supplier.

Mr B made a claim to Santander under section 75 of the Consumer Credit Act 1974 in September 2023 for the payments that he'd made to the Accommodation Supplier and the Subscription Supplier. He said that he was approached with an offer to attend a presentation outlining a timeshare disposal and compensation claim service, promising release from his timeshare contract and a full refund of his payments to the timeshare resort, but subsequent events revealed that the Accommodation Supplier and the Subscription Supplier never intended to fulfil their obligations outlined in the contracts.

Santander said that there was no direct link between the Accommodation Supplier and the Subscription Supplier so it couldn't review the payment to the Subscription Supplier under section 75 as it wasn't made by credit card. But it offered to partially refund the payment made to the Accommodation Supplier on the basis that Mr B didn't receive the full service from it. The refund offered was £932.63.

Mr B didn't accept that offer and complained to this service. He said that he was entitled to full compensation. The complaint was then looked at by one of this service's investigators who, having considered everything, thought that it should be upheld. He was persuaded that Mr B was sold both agreements as a package at the same meeting in January 2019 but hadn't used any of the services. He said that the Subscription Supplier was dissolved on 22 July 2020 and that the Accommodation Supplier was closed in July 2023. He recommended that Santander should pay Mr B the £11,953.50 he paid for the services, plus interest from the date of the breach (which he said was 22 July 2020 as it was likely around then that the Subscription Supplier ceased trading).

Santander accepted that there was a link between the two contracts and agreed to

reimburse the £10,710 to Mr B but it proposed to only refund 50% of the payment made to the Accommodation Supplier (which it then increased to 75%) and to pay interest from the date that the section 75 claim was declined (which it said was 6 October 2023). The investigator agreed that it would be fair and reasonable for interest to be paid from the date that the claim was declined. Mr B says that he should receive a full refund of the payments made to the Accommodation Supplier and that interest should be calculated from the date of his initial payment in January 2019”.

My provisional decision

I set out my provisional findings in my provisional decision which were as follows:

“Section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there’s been a breach of contract or misrepresentation by the supplier (provided that certain criteria set out in that section are met). I’m not determining the outcome of Mr B’s claim under section 75 as only a court would be able to do that but I’m considering whether or not Santander’s response to his claim was fair and reasonable in the circumstances.

Santander has agreed to reimburse Mr B for the full amount of £10,710 that he paid to the Subscription Supplier so I haven’t considered Mr B’s claim relating to reimbursement of that amount any further.

Mr B entered into the accommodation contract in January 2019 and he signed two letters – one to acknowledge that he’d checked in to a hotel and the other to confirm that he’d received an accommodation voucher for a specified hotel and week in July 2019 for the second week of accommodation. That letter also confirmed that he’d used one of the four weeks, had booked a second week and had two weeks available. Mr B says that he didn’t use the booked week of accommodation but I consider it to be clear from those letters that it was intended that one of the four weeks would be the week in January 2019 that he’d used.

So I consider Santander’s offer to refund to Mr B 75% of the payments that he made to the Accommodation Supplier – a total of £932.63 – to be fair and reasonable. I don’t consider that it would be fair or reasonable in these circumstances for me to require Santander to refund to Mr B the full amount of £1,243.50 that he paid to the Accommodation Supplier.

Mr B said in his September 2023 letter to Santander that the misrepresentations by the Accommodation Supplier and the Subscription Supplier led to his purchase. But he hasn’t provided a detailed account of the circumstances in which the alleged misrepresentations were made, the conversations that took place or the information that was provided to him before his purchases. And even if I was to find that misrepresentations were made to him (and I make no such finding), I don’t consider that it would be fair or reasonable for me to require Santander to refund him for the cost of the week of accommodation that he’d agreed that he’d used.

The investigator recommended that Santander should also pay interest on the amounts to be paid to Mr B from the date of the breach of contract but he then agreed with Santander that interest should be paid from the date that the claim was declined. Mr B says that interest should be calculated from the date of his initial payment.

I consider that interest should be paid on those amounts for the period from the date

that the breach of contract occurred, as that's the date from which the supplier's liability for the breach of contract would have started and from which Mr B had an equal right to make a claim to Santander under section 75. So, in these circumstances, I consider that interest should be added for the period from 22 July 2020, which is about when the Subscription Supplier ceased trading.

I find that it would be fair and reasonable for Santander to: pay £932.63 to Mr B to refund him for part of the amount that he paid to the Accommodation Supplier; pay £10,710 to him to reimburse him for the amount that he paid to the Subscription Supplier; and pay interest on those amounts from 22 July 2020”.

Subject to any further comments or evidence that I received from either Mr B or Santander, my provisional decision was that I intended to uphold this complaint in part. Mr B has accepted my provisional decision and Santander says that it's happy to agree to the recommendations that I set out.

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.

As Mr B has accepted my provisional decision and Santander is happy to agree to the recommendations that I set out, I see no reason to change the findings that I set out in my provisional decision.

Putting things right

For the reasons set out in my provisional decision, I find that it would be fair and reasonable for Santander to: pay £932.63 to Mr B to refund him for part of the amount that he paid to the Accommodation Supplier; pay £10,710 to him to reimburse him for the amount that he paid to the Subscription Supplier; and pay interest on those amounts from 22 July 2020.

My final decision

My decision is that I uphold Mr B's complaint in part and order Santander UK plc to:

1. Pay £932.63 to Mr B to refund him for part of the amount that he paid to the Accommodation Supplier.
2. Pay £10,710 to Mr B to reimburse him for the amount that he paid to the Subscription Supplier.
3. Pay interest on those amounts at an annual rate of 8% simple from 22 July 2020 to the date of settlement.

HM Revenue & Customs requires Santander to deduct tax from the interest payment referred to above. Santander must give Mr B a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 September 2024.

Jarrold Hastings
Ombudsman