

The complaint

Mr G complains that Santander UK plc won't refund to him the £4,285 that was charged to his credit card account following an accident in a rental car.

What happened

Mr G rented a car when he was on holiday overseas and the car was involved in an accident in February 2024. Mr G had paid an excess of €700 but the rental company charged him another €5,000 and £4,285 was charged to his credit card account with Santander. Mr G contacted Santander to dispute the payment. It said that it didn't have enough information to raise a chargeback claim but it then accepted that that was incorrect as Mr G had provided the required information. It apologised for that, paid Mr G £50 compensation and made a chargeback claim to the rental company.

The rental company defended the claim and provided information to show that the payment was due based on the terms and conditions within the agreement that Mr G had signed. Mr G was told that he'd receive a credit whilst Santander's investigation took place, but that didn't happen so it refunded to Mr G interest of £151.83 that he'd been charged.

Santander then considered Mr G's claim under section 75 of the Consumer Credit Act 1974 but concluded that it didn't have enough evidence to show that a breach of contract had taken place. Mr G complained to Santander about its response to his section 75 claim but it said that his claim had been referred to its legal team and it was satisfied with the decision made to decline his claim.

Mr G wasn't satisfied with its response so complained to this service. His complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld. He said that he didn't consider that there was a breach of contract or that Mr G had a valid claim under section 75 for breach of contract and a chargeback claim was made and defended and was unlikely to be successful.

Mr G didn't accept the investigator's recommendation and has asked for his complaint to be considered by an ombudsman. He has responded to the investigator's recommendation in detail and says, in summary and amongst other things, that the only claim that could properly be made by the rental company is that he was negligent under clause 12 of the contract but the damage caused to the car was a genuine accident and wasn't caused by negligent driving.

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.

Mr G booked a rental car for his holiday through a booking agency and he says that he opted for the booking agency's zero excess insurance cover. He entered into a contract with the rental company when he collected the company and signed its contract. He also paid an excess of €700 to the rental company.

The car was involved in an accident in February 2023 and the rental company charged Mr G another €5,000. It has provided its invoice of €5,700 for the accident and a damage report which says that the amount to pay is €5,000. Mr G has signed the damage report but written on it: *"Acknowledge receipt only"*. The car rental company has also provided an accident report that says that possible causes of the accident were bright sunlight *"... and incorrect manoeuvre by the driver of the vehicle involved"*.

The rental company said that the contract said:

"It will be the client's obligation to use the vehicle with due diligence, in accordance with its characteristics, respecting current motor vehicle traffic regulations and avoiding, in any case, any situation that could cause damage to the vehicle [and] to third parties"; and

"The lessee will accept charges on his credit card, debit card or in cash for delivering the vehicle at the end of the contract with less fuel than what it had at the beginning, for any damage that was not covered by the contracted insurance coverage, for additional days or negligent causes. When you sign the rental contract, you acknowledge your obligations and accept at the time of signing any charge that we must make to your credit or debit card as payment for the expenses incurred during the rental period".

The rental company says that the amount of €5,700 is much lower than the total value of the accident since the condition in which the car was left means that there is no possibility of repair so the loss includes the total cost of the damaged vehicle, which had an accounting net value of €10,943.35 at the time of the accident, plus rescue services, such as tow trucks, firefighters and ambulances and it has provided an invoice for the €463.50 that it paid for a crane to remove the car.

Mr G contacted Santander to dispute the €5,000 that he'd been charged by the rental company. If a consumer disputes a credit card payment, there are two ways that I would expect the card issuer to consider to dispute the payment: a chargeback claim and a claim under section 75. Santander made a chargeback claim to the rental company but it provided a detailed defence to the claim. On the basis of the information that it received from the rental company, I consider that it was fair and reasonable for Santander to conclude that there was no reasonable prospect of a chargeback claim being successful and to decide to take no further action on that claim.

In certain circumstances, 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. To be able to uphold Mr G's complaint about Santander, I must be satisfied that there's been a breach of contract or misrepresentation by the rental company and that Santander's response to his claim under section 75 wasn't fair or reasonable (but I'm not determining the outcome of Mr G's claim under section 75 as only a court would be able to do that).

Santander had received the detailed defence from the rental company to the chargeback claim. In considering a section 75 claim, it would have used the evidence from that defence to look at whether there had been a breach of contract or misrepresentation by the rental company. I consider that it was fair and reasonable for it to have concluded that there hadn't been a breach of contract by the rental company. When Mr G complained to it about its response to his section 75 claim, it referred his claim to its legal team and it said that it was satisfied that there hadn't been a breach of contract.

I'm not persuaded that Mr G has provided enough evidence to show that there's been a breach of contract by the rental company and I consider that Santander's response to Mr G's section 75 claim was fair and reasonable in these circumstances. Mr G's complaint is about Santander and not the insurer with which he says that he has zero excess insurance cover so I haven't considered in this decision any claim that he may have under that insurance but, if he hasn't already done so, he might want to make a claim under that insurance for the €5,000 that he's been charged.

Santander has accepted that there have been errors in its handling of Mr G's claims and it has paid him £50 compensation and refunded to him interest of £151.83 that he'd been charged. It's clear that Mr G has strong feelings about his complaint so I appreciate that my decision will be disappointing for him. I find that it wouldn't be fair or reasonable in these circumstances for me to require Santander to refund to Mr G the £4,285 that he's been charged, to pay him any further compensation or to take any other action in response to his complaint.

My final decision

My decision is that I don't uphold Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 2 September 2025.

Jarrold Hastings
Ombudsman