

The complaint

Mr S complains Santander UK Plc has acted unfairly by not refunding the payment he made for car hire using his credit card.

What happened

Mr S has been supported in making this complaint by his partner, Ms D, but for simplicity I'll refer to all submissions as having come from Mr S.

In March 2024 Mr S used an Introducer website, that I'll refer to as D, to arrange car hire in the USA. He paid D £30.59 using a plastic card, not held with Santander. In exchange he received a voucher which said he'd need to pay approximately \$314 to a company, I'll refer to as R, when collecting the car.

However, on arrival R asked Mr S to pay \$2,005.47. As this was more than expected, Mr S questioned the amount and tried to contact D. But as he was unable to get hold of D and needed the car says he had no choice but to pay the amount R asked for. Mr S paid \$2,005.47 (£1,583.47) on 19 March 2024 using his Santander credit card.

Mr S says he later became aware the number plate on the car had expired during the hire period, so contacted R to complain, as he considered it illegal to drive. R refused to provide a replacement car, saying Mr S could still drive the car until the end of the hire period and it would be responsible if anything were to happen. Mr S didn't agree so says he made alternative transport arrangements at his own cost, but made the difficult decision to return the car at the end of the hire period, even though he considered it wasn't legal to drive.

After his return Mr S complained to both D and R. D agreed to refund the £30.59 he'd paid it, but said it had no control over the amount R charged. R also didn't resolve matters for Mr S. As such he contacted Santander, in an attempt to claim a refund under Section 75 of the Consumer Credit Act 1974 (CCA).

In addition to issues with the number plate, Mr S said charges had also been misrepresented. This included insurance he didn't need, additional taxes and charges he wasn't expecting, as well as a higher cost for paying by credit card, than R verbally told him it would be. He also said he'd been required to purchase an unlimited toll pass, but later found the price was far in excess of the true cost of tolls.

Santander reviewed matters but declined Mr S' claim. It didn't agree there'd been a breach of contract or misrepresentation as he'd agreed to the total cost, and paid, before hiring the car. It also said his concerns about the number plate didn't impact the claim as he'd agreed to the terms and conditions of hire. Santander refused to change its position after Mr S complained, so he referred matters to this Service.

An Investigator here looked into things but concluded there'd been no breach of contract or misrepresentation by R. They said R had been upfront about the cost before Mr S paid, and his concern about the number plate wasn't something our Service could consider. They also said D couldn't be held responsible for the additional charges he'd incurred as payment had

been made directly to R. So overall concluded there'd been no error by Santander.

Mr S didn't agree, in summary he said D shouldn't be absolved of responsibility for what had happened. He also didn't think our Investigator had considered what would have happened had he refused payment, or the impact jet lag and tiredness had on him at the time. He considered the illegal number plate rendered the hire obsolete – and as such we should consider that. In support, Mr S provided several third-party reviews he'd found about R online.

With no resolution the complaint was passed to me to decide.

I issued a provisional decision, explaining why I didn't intend to uphold this complaint. In this provisional decision I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I realise I've summarised this complaint in less detail than both parties. I've concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean I've not considered everything both parties have said.

I think it would be helpful to explain, in this decision I'm only able to consider how Santander handled the dispute Mr S raised with it. I'm not able to consider the actions of D or R, as that isn't within the jurisdiction of this service for these types of complaints.

When a consumer approaches their credit card issuer with a problem with a purchase made using their card, there are two avenues via which the business can help. The card issuer can try to reclaim the amount (or part of the amount) the consumer paid on their card, via the dispute resolution mechanism operated by the card scheme, and which is often known as "chargeback". They can also consider honouring a claim under section 75 of the CCA.

Chargeback

Chargebacks are governed by rules set by the card scheme to which the consumer's card belongs (Mastercard in this case). While a consumer cannot require their card issuer to attempt a chargeback, as it isn't a right, our service does consider it good practice to do so, if it is within the time limits and there is a reasonable prospect of success.

Santander don't appear to have attempted a chargeback in this instance. So I've thought about whether that led to Mr S being unfairly denied the opportunity to have the money returned.

Here Santander could only have raised a chargeback for the payment made using its card (£1,583.47). So I've thought about whether a chargeback for that amount would likely have been successful. However, chargebacks can also only be raised for reasons specified by the card scheme. If a particular dispute doesn't fall neatly within one of those reasons, then it may not be a suitable dispute to raise via a chargeback.

Mr S has said he was unhappy with the amount he paid for the hire car as it was more than he expected to pay and considers he was charged for things he didn't need.

Ultimately, having considered the reasons for which a chargeback can be raised under Mastercard's rules, I think it unlikely a chargeback would have been successful under any reason code. I say that because Mr S received the hire car he paid for. And while he was unhappy with the amount he paid and considered he had no alternative option – he still

chose to pay it before accepting the car.

Given this, while Santander didn't attempt a chargeback, I don't consider Mr S lost out as a result. Because I don't think a chargeback would have succeeded in any case, because he paid for a service he received. As such I don't think Santander acted unfairly here.

Section 75 of the CCA

Section 75 of the CCA allows consumers who have purchased goods or services using a credit card, to claim against their credit card issuer in respect of any breach of contract or misrepresentation by the supplier of those goods or services, so long as certain conditions are met.

One condition which needs to be met for section 75 to apply to a purchase is the claim must relate to an item with a cash price of over £100 and no more than £30,000. Here the total amount paid, met that condition.

A further condition is that there needs to be what is known as a debtor-creditor-supplier ("DCS") agreement in place. Here that condition has also been met in relation to the payment made to R (£1,583.47).

I understand Mr S considers D should also be held responsible for what happened, but as the payment wasn't made using a card provided by Santander I'd need to be persuaded the payment he made to D either formed part of the same contract he entered with R, or that R and D were 'associates'.

Section 184 of the CCA defines 'associates'. The definition says individuals are considered associates if they have certain spousal or family relationships. Or, if a corporate entity, can be considered associates if they are controlled by the same people, or by different people who are themselves, associates.

I've not seen anything to say D and R would meet the definition explained above, as such I don't think they can be considered 'associates'. So I've gone on to consider whether the payments formed part of the same contract, but I don't think they did. I say that because the voucher Mr S was issued by D, lists the "Supplier" as R. And D has said it's not responsible for payments made directly to R. In D's terms and conditions it says:

"The complete applicable rental conditions of the car rental company are available at pick-up. In the event of any discrepancy between the conditions displayed on the Website and those provided at pick-up, the conditions provided at pick-up shall prevail. The Company assumes no responsibility with regard to the Customer if the car rental company changes the rental conditions prior to or at the time of pick-up, and this does not constitute grounds for refund or compensation from the Company."

As such it appears D holds itself as an intermediary rather than responsible for the end service. I understand Mr S has now received a refund for the amount he paid to D, but even if he hadn't and D had done something wrong it wouldn't mean Santander is responsible under Section 75. That's because Santander didn't fund that payment, and as explained above the contract he entered with D says it's not responsible for the actions of R.

I also need to be persuaded there has been a breach of contract or misrepresentation and if there has, what the resolution should be. As I've concluded I can only consider the payment of £1,583.47 made to R, my findings are limited to whether the contract Mr S entered with R was breached or misrepresented. I'll explain this in more detail below.

Has there been a breach of contract or misrepresentation?

Misrepresentation

For the purposes of this case, a misrepresentation is a false statement of fact which induces another party into a contract which leads them to suffer a loss.

Mr S has said some charges were misrepresented to him. However having read the "charge information" R provided before payment, this clearly lists the total charge (excluding credit card surcharge) would be \$1,928.53 and was made up of:

- Tax – payable on arrival - \$264*
- Supplementary Liability Insurance - \$901.78*
- Additional Driver - \$50.00*
- [Toll Pass] Unlimited - \$439.78*
- Process & Facility & Lic Recov & Rdf - \$131.56*
- FL surcharge - \$44.00*
- Tax - \$97.41*

To say there's been a misrepresentation I'd need to be able to conclude Mr S was told he'd receive something that turned out not to be true. Here Mr S paid the amount listed, and I've not seen anything to say he didn't receive these benefits. The fact he says he didn't need insurance, or the cost of tolls for his journey was less than he paid for the toll pass, doesn't mean the items were misrepresented.

I've thought about what he's said about not needing insurance or the toll pass. But Mr S has also said R told him he needed insurance to include certain factors. And while the toll pass may not have been beneficial for his specific journeys, ultimately he went ahead with payment, after being told the charge for these items, so I can't agree there's been any misrepresentation here.

Mr S also says R charged him a larger surcharge, paying by credit card, than it told him it would be at collection. As Mr S points out this detail isn't included within the terms and conditions. So while I can't say for certain why he may have been told it would be less, I'd also need to be persuaded the information he was given on this point induced him to enter the contract – and I don't consider that was the case here. I think it's also reasonable to conclude, as the total amount he paid using his Santander card included the surcharge, he'd have seen this before authorising payment.

The other misrepresentation arguments Mr S raised are in relation to the actions by D, and as I've explained above, I'm not able to consider those here.

I've also taken into account what Mr S has said about being jet lagged and tired, but section 75 is prescriptive in the way a claim can be made. Based on what I've seen there's no evidence there has been a false statement of fact here which induced Mr S to enter the contract, and as such I'm not able to conclude there has been any misrepresentation. So I can't say Santander has acted unfairly in not refunding Mr S for a misrepresentation.

I've therefore gone on to consider whether there has been a breach of contract.

Breach of contract

A breach of contract occurs when one party to the contract fails to discharge its obligation to the other. These obligations may come about as a result of the express term of the contract, or because of terms implied by legislation.

Mr S has argued the provision of what he considered to be an illegal number plate rendered the hire obsolete. Our Investigator said this wasn't something we were able to consider, but I don't agree, I'll explain why. If Mr S had formed a contract for the provision of a service in the UK, the contract would have been covered by the Consumer Rights Act 2015 ("CRA"), and it would have been an implied term of Mr S' contract with R that the service it provided would have been carried out with "reasonable care and skill".

But as Mr S entered the contract with R outside of the UK, the CRA doesn't apply. So while I've thought about whether there were similar laws in the USA, that Mr S may have been covered by, I've also considered whether Mr S was impacted by the actions of R here. But on that point, I don't think he has been. I'll explain why.

Here, it's clear the number plate on Mr S' hire car expired around a week before he was due to return it. Having researched this, it appears for around the first six months after expiry, the penalty would likely be a traffic penalty. So had Mr S been stopped while driving the car, it's possible he could have received some form of penalty. R told Mr S it would be responsible had he been stopped. But it could be argued R should have provided Mr S a car without issues that meant there was no potential for him to be stopped for this issue.

But as explained above, I also need to consider whether Mr S was impacted by the actions of R here. On this point, I arranged for our Investigator to ask Mr S about the impact on him and any costs he incurred. I was pleased to hear Mr S wasn't stopped and was able to return the car unhindered. He has said he was inconvenienced and ended up borrowing a car from a friend for a short period of time. I understand he took his friend for a meal and cooked for them at the cost of around \$200. But as this cost wasn't for the hire of replacement transport, I can't fairly say this constitutes a direct financial loss.

As I've explained, my remit here is to consider whether Santander handled Mr S' claim fairly. That means, unless I found Santander had handled Mr S' claim incorrectly or unfairly, I'm not able to award any compensation for the distress and inconvenience he's experienced as a result of R's actions.

Given this while R appear to have provided Mr S a car with a number plate that expired before he was due to return it, I haven't found there has been a direct loss to Mr S as a result, so I don't consider Santander acted unfairly in the way it handled Mr S' section 75 claim.

I should also say, while Mr S has provided evidence of online reviews where R appears to have charged other third parties large fees too – that isn't something I can take into account. That's because, as explained, I'm considering the actions of Santander and I need to look at every complaint individually and its own merit, rather than third party opinions.

I do appreciate this will come as a disappointment to Mr S, but for the reasons explained above, I don't intend to ask Santander to take any action in this case.

I invited both parties to respond with any further points or evidence they wanted me to take into account before I made a final decision.

Santander didn't respond to my provisional decision by the deadline.

Ms D responded on behalf of Mr S, disagreeing with my provisional decision. As before, for simplicity I'll refer to all submissions as having come from Mr S.

In summary he said, he didn't agree deprivation of use had been considered. Specifically saying the car could not be used once the number plate had expired. He also didn't think R had agreed to take responsibility, had he been stopped. Overall Mr S said he shouldn't have been put in this position by R, and the fact he wasn't stopped was inconsequential.

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 outcome as set out in my provisional decision.

As I noted, in my provisional decision, I consider R told Mr S it would be responsible, had he been stopped. I say this because, in its email to Mr S on 5 April 2024 it said:

"Checking the car's license plate is not a problem since you deliver it next week. We as a company are responsible for any inconvenience and you can continue with your vacation.

When the plates are temporary Dealer, the officers know that this requires a renewal process, and that vehicle is within the allowed time."

As such, had Mr S been stopped I think it's reasonable to conclude R would have dealt with any issues he may have incurred as a result. That said, as explained, in order to uphold on this aspect, I also need to be persuaded Mr S was impacted by R's actions. He's said he was impacted as he was unable to use the car as a result – aside from to return it at the end of the hire period.

I've considered what Mr S has said here, but ultimately as he didn't return the car until the end of the rental period, it was available for him to use, but he chose not to do so until he returned it. I'd also still need to be persuaded Mr S lost out as a result and I haven't seen that to be the case. He was able to use a friend's car, and while I can appreciate that would be inconvenient, as explained that isn't something I'm able to hold Santander responsible for. And as I haven't seen any direct loss, financial or otherwise, that I could hold Santander responsible for, I can't say it's acted unfairly in how it's handled Mr S' claim.

While I appreciate Mr S says the fact he didn't get stopped is inconsequential – I don't agree. My role is to look at the circumstances of individual cases, and here, Mr S was able to return the car unhindered and had access to it during the rental period, so I can't agree he was deprived of its use.

Taking everything into account, I can't conclude Santander acted unfairly in the way it handled Mr S' claim. That's because he received the car he paid for, so I don't consider there was a reasonable prospect of success had Santander attempted a chargeback. And I also think it handled his section 75 claim in the way it should. While I can appreciate the number plate would have been frustrating, I haven't found there's been any direct loss as a result. As such I won't be asking Santander to take any action here.

My final decision

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or

reject my decision before 22 July 2025.

Victoria Cheyne
Ombudsman