

## **complaint**

Mr T is unhappy about charges applied to his account by Santander UK Plc. He wants the charges refunded.

## **background**

Two cheques debited Mr T's account on 19 and 21 March 2013 taking Mr T's current account overdrawn. Mr T went to his branch on 22 March and requested a mini-statement on his current account. But his account remained overdrawn until 7 May, so Santander applied charges of £140 on 27 April. It refunded these on 7 May, but further charges of £100 were applied later in May in relation to the period from 19 March to 7 May when the account was overdrawn.

Mr T says the cashier should have told him the account was overdrawn as the mini-statement was not clear. He wants the remaining £100 of charges refunded. Santander has declined to refund those charges. It says Mr T did not ask for the balance of the account, but a mini-statement. It says it refunded the initial £140 of charges as a good will gesture but the further £100 was correctly applied.

Our adjudicator did not recommend that this complaint should be upheld. She concluded that the charges had been correctly applied in accordance with the terms and conditions of the account.

Mr T disagrees and has asked for his complaint to be reviewed.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I have sympathy with Mr T and his frustration at the charges applied to his account. I understand Mr T may have had trouble reading the mini-statement and accept that he feels it was not clear. I also accept Mr T has managed his account well for a long period of time and is particularly upset at the level of the charges applied.

However, in all the circumstances, I do not think Santander has done anything wrong. I am satisfied Mr T did not ask for the balance on his account and I have no reason to find that Santander should have known that he needed assistance understanding the mini-statement he requested. I also think he could have asked for a balance or requested that the cashier give him assistance, but he did not do so.

Turning to the charges on Mr T's account, I can see Mr T is unhappy these were applied. But the Financial Ombudsman Service is unable to intervene to override or reduce charges applied by a bank since the decision of the Supreme Court in November 2009 in the Office of Fair Trading's "test case" on the fairness of bank charges. The Supreme Court held that such charges cannot be regarded as penalties and are generally not able to be challenged on the grounds that they are too high as long as they are clearly set out by the bank.

Accordingly, unless the charges have been misapplied by the bank, it is not possible to challenge them. In all the circumstances, I do not think the charges have been wrongly applied. Rather, I am satisfied that they were applied correctly and in accordance with the

terms and conditions of Mr T's account when he went overdrawn and remained so until 7 May. I can see Santander has refunded a portion of the charges it applied as a good will gesture. But in all the circumstances I do not think I can fairly require Santander to do anything further.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr T to accept or reject my decision before 10 April 2015.

Zoe Copley  
**ombudsman**