

complaint

DEF Ltd (not the company's real name) has said Santander UK Plc is wrong to hold it responsible for a number of transactions which occurred on its account.

background

Our adjudicator agreed. She did not think DEF Ltd had either authorised the transactions or been grossly negligent with its account information.

The bank asked for this review of the complaint by an ombudsman. While agreeing with most of the adjudicator's conclusions, the bank still thought DEF Ltd had been grossly negligent, because via its director it should have noticed the fraudulent transactions sooner than it did.

my findings

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

It is known DEF Ltd was defrauded and the fraudster has been convicted of the fraud. So clearly DEF Ltd did not authorise the transactions. The only question is therefore if the company has been grossly negligent.

The bank has argued it is grossly negligent of DEF Ltd not to notice the fraudulent transactions sooner. There is no basis or justification for this argument. A customer does not owe the bank a duty to spot fraudulent transactions. Nor could this constitute gross negligence in any case in the relevant context.

my final decision

I order Santander UK Plc to refund the relevant transactions and make all necessary adjustments to the account, to put it in the position it would now be in if the transactions had not occurred. The bank is also to pay DEF Ltd £50 in respect of an incorrect address registration. If DEF Ltd receives any refunds from the convicted fraudster it must pay them to the bank.

Roger Yeomans
ombudsman