

complaint

Ms D complains that Santander UK plc treated her unfairly concerning a fraudulent transaction made on her account.

background

Ms D received a call from an individual who told her they were from the Santander fraud team and were calling about attempted fraudulent access to her online banking facility.

The caller told Ms D that Santander would monitor her account and call her back within 24 hours. When she did not hear further from Santander, Miss D contacted it and discovered that she had been the victim of a scam. The previous call she had received had not been from Santander, and fraudsters had accessed her online banking facility to take some money from her account.

Initially, Santander refunded the fraudulent transaction. However, after its internal investigation was complete it reversed the refund and said it considered that it was not liable for the loss Ms D had suffered from the scam.

As things were not settled, Ms D brought her complaint to this service where it was investigated by an adjudicator. From the evidence, the adjudicator was satisfied that Ms D had been persuaded to give information to the fraudsters in circumstances that did not amount to gross negligence.

In the circumstances, the adjudicator recommended that Santander should refund the amount of the fraudulent withdrawal and also pay Ms D £150 in respect of accepted poor service when Ms D complained.

Santander did not agree with the adjudicator's conclusions and said, in summary:

- Ms D waited five days before contacting Santander, even though she had been told she would receive a call within 24 hours.
- Ms D compromised the security of her account by not updating her address.
- Santander did not facilitate or help the fraud; it was Ms D who gave out information. She should have known not to do that.

my findings

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

From the evidence, I agree with the adjudicator that Ms D was the victim of a type of fraud in which the victim is invited to call their bank back on the number on the back of their bank card, but the line is then kept open by the fraudster to give the victim the impression that they are successfully double-checking with their bank.

Ms D accepts she gave out her pass code, but in this particular case I do not consider that the circumstances in which she did so are such that she was grossly negligent – and gross negligence would have to be found if I am to accept Santander's case that it may hold Ms D liable for the payment that the fraudsters made from her account.

I also note that part of the payment came from Ms D's overdraft facility. Where a fraudulent payment is made from credit, the consumer is generally liable only if they either made or authorised the transaction. I would have some difficulty, given the particular circumstances here, in concluding that Ms D had authorised the transaction.

I do not consider that the points Santander has made are sufficient, given the rules that apply to disputed transactions, to demonstrate that it is entitled to hold Ms D liable for the payment that the fraudsters made out of her account.

Santander accepts it provided poor service to Ms D when she complained about the reversal of the refund on her account, and had already agreed to pay £150 for any additional upset and trouble that caused. That seems a reasonable outcome here.

Overall, I have arrived at the same conclusions about the settlement as did the adjudicator, and I have included a specific direction in relation to any charges incurred through the disputed transaction.

my final decision

My final decision is that I uphold this complaint. I direct Santander UK plc to:

- refund the disputed payment; and
- pay Ms D £150; and
- refund any account charges and interest that were incurred through the payment of the disputed transaction.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms D to accept or reject my decision before 20 March 2015.

Jane Hingston
ombudsman