

complaint

Mrs T complains that Santander UK Plc has not refunded a number of cash machine withdrawals that she says she did not make or authorise.

background

In July 2013 Mrs T informed Santander that she had lost her debit card and did not recognise a number of cash machine withdrawals that had been made in another European country during the last week of June. She said she had originally come from that country but had not visited it recently, and nor had any relatives or friends. Mrs T said she did not know how someone had obtained her card and PIN. She had memorised the PIN and did not keep a written record of it.

Santander declined to refund the transactions, saying that the genuine card had been used and the correct PIN had been entered first time in each case. Mrs T was unhappy with the bank's response and referred her complaint to this service.

Santander said that Mrs T had deposited £2,000 at the end of April 2013, then a week later asked for a new card to be sent to her. The card was used for a balance enquiry during the second week of June. That was the only genuine use of the card before the disputed transactions. Santander said that it did not believe that a fraudster obtained the PIN by looking over her shoulder at this time. It said a fraudster would have been likely to use the card straight away, but there was a gap of two weeks before the first disputed transaction.

Our adjudicator did not recommend that the complaint should be upheld. Briefly, he said:

- He was satisfied that the bank's records showed that whoever carried out the transactions had the genuine card and knew the PIN.
- Mrs T has not been able to explain how an unknown third party could have obtained the card and PIN. There has been no suggestion of a burglary at Mrs T's property.
- If the card was stolen, it would be reasonable to expect a fraudster to try to use it immediately. But in this case, whoever used the card travelled to another country before attempting to use it.
- After Mrs T reported the card missing, there were no further attempts to use the card.

Mrs T disagreed with the adjudicator's conclusions and asked for the case to be reviewed by an ombudsman. She said she has been the victim of fraud.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same conclusions as the adjudicator and for much the same reasons.

Where the evidence is incomplete or inconclusive or contradictory, as some of it is here, I reach my decision on the balance of probabilities - in other words, what I consider is more likely than not to have happened in the light of the available evidence and the wider circumstances. It is difficult to see how the card and PIN were obtained by the person who

used them in the other country, and it would be very unusual for an opportunist thief to travel so far before using them. On balance, I think it is unlikely that an unknown third party made the withdrawals.

I think it is significant that there were no attempts to use the card after Mrs T contacted the bank. I say that because a fraudster would not have known that the card had been reported lost and might have been expected to try again. I also note that Mrs T first reported the problem to the bank only hours after the disputed transactions brought the account balance close to zero, which is a further coincidence.

Given the circumstances of the case, I doubt that Mrs T made the withdrawals herself. But I believe someone used her card and PIN with her permission. So I find that Santander was entitled to hold her liable for the disputed transactions and I do not order it to make a refund.

my final decision

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

Colin Brown
ombudsman