

complaint

Mr H complains that Santander UK Plc is allowing his account to go into unauthorised overdraft, and charging him for that.

background

Mr H told us that he is in an Individual Voluntary Arrangement. He said he isn't allowed credit. But he said that Santander keeps clearing transactions on his account that put him into unauthorised overdraft. And then it charges him high fees for that.

Santander said that it had refunded and waived some overdraft fees for Mr H earlier in the year. It said that it does this as a gesture of goodwill, but it will only do this once. It explained that to Mr H at the time. It said it told him then how to avoid further fees being applied to his account. So it says that it won't waive these fees now.

Our investigator didn't uphold this complaint. He said that a court case from 2009 means that we can't ask a bank to refund bank charges because they are high. He said he'd checked, and he thought that the charges had been correctly applied. And it wasn't unfair for Santander to apply those charges, especially as it had previously explained to Mr H how the charges worked. So he didn't think Santander had to give Mr H any money back.

Mr H didn't agree with that. He said that he had chosen a bank account without an overdraft, but now Santander was running up an overdraft for him. He said that if he doesn't have the money in his account, he doesn't think Santander should let the transaction go through. Because Mr H didn't agree with our investigator, the case was passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've reached the same overall conclusion on this complaint as our investigator.

We checked with Santander, and it said it didn't know that Mr H was in an Individual Voluntary Arrangement. I've looked through the records that it has supplied, and I can't see any evidence that Santander was told that Mr H was in an IVA. So I accept what Santander says about that.

Our investigator explained to Mr H that this service can't ask a bank to repay charges just because they are high. And he said he'd checked that the charges were correctly applied to Mr H's account. But Mr H says that Santander shouldn't be running up this overdraft. He thinks it shouldn't clear payments on his account at all if he hasn't got the money to pay them. I understand why Mr H thinks that. But the problem is that the business or person taking a payment doesn't always check with the bank if the customer has enough money to cover a payment. Some retailers operate a system where they will just take payment for smaller amounts, without knowing whether the customer actually has that money. In those cases, it isn't fair for Santander not to pay the money. So I don't think that Santander did anything wrong when it honoured these payments and took the money out of Mr H's account. Especially as Santander had previously explained to Mr H that this could happen, and had refunded some charges that he ran up like this. That means I don't think Santander needs to do anything to make up for this now.

I know Mr H will be disappointed, but I don't think this complaint should be upheld.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to Mr H to accept or reject my decision before 5 January 2018.

Esther Absalom-Gough
ombudsman