

complaint

Mr W is unhappy that Santander UK Plc did not block his card from being used at a specific gambling company. As a result, he spent £10,200. Mr W wants Santander to refund this money as he thinks he should have been protected when he asked for his card to be blocked a few months earlier.

background

Mr W says he disputed payments with a gambling company in December 2017 and reported this to Santander. He asked for his card to be blocked so that no further spending could take place with the same gambling company. Mr W disputes that £10,200 was then spent with that same gambling company a few months after, in February 2018, and he should have been protected and the transactions blocked by Santander or the gambling company. Ultimately Mr W doesn't dispute that it was spent, only that he shouldn't have been able to do so.

Santander looked into Mr W's complaint. It said Mr W had been told that a "*future dated card stop*", could be applied to his card which would stop future transactions to the gambling company. Santander has now explained that this type of block only prevents certain types of payments including pre-authorised transactions, it doesn't stop transactions where the card and PIN is used.

Mr W was issued with a new card on 06 December 2017 and Santander says that the block it had applied would not have affected the new card. And the transactions to the gambling company made in February 2018 were made using the genuine card and PIN, so the type of block would not have stopped these payments in any event. Santander apologised for the incorrect information it provided to Mr W and paid him £100 in compensation.

It also said that as the transactions were made using the genuine card and PIN it didn't make any error in allowing them to debit Mr W's account.

Mr W said that previously he had been called when he made similar transactions on his account. This was to verify the transactions were being made by him, but that didn't happen this time.

Santander explained that as Mr W had previously confirmed similar transactions, these transactions did not appear out of the ordinary. Santander said that transactions to the same gambling company for £1,000 and £6,600 were made in January and February 2018 respectively and Mr W has not disputed these.

Mr W also said that he didn't think he had made all of the transactions as they varied in amounts. Santander in its final response asked Mr W to indicate which transactions weren't made by him but I haven't seen that he did this. Overall it said it didn't make a mistake by allowing the transactions to debit Mr W's account.

Unhappy with the outcome Mr W brought his complaint to our service. One of our investigators looked into things. Based on the evidence he had considered he was persuaded that Mr W authorised the transactions. He didn't think there was any evidence to suggest that anyone else other than Mr W made them.

The investigator also considered the information Mr W had been given over the phone when he called Santander in December 2017 and believed his card had been blocked. He concluded that there were transactions made to the gambling company before the disputed ones and after Mr W had been told (and believed) his card had been blocked. But he didn't report those or make contact with Santander about being able to use his card with the gambling company.

The investigator concluded that whilst Mr W had been given some incorrect information Mr W ought to have been aware that the block hadn't been applied before the 08 February when he spent £10,200. He also added that even if a block had been added he didn't think this would have prevented Mr W's losses as he was using other gambling companies to make similar transactions both before and after these events.

Mr W didn't accept the investigators findings. In summary he said:

- he didn't remember the transactions in January and February 2018 with same merchant;
- he asked Santander to stop the card and felt it should have protected him; and
- he doesn't think the gambling company should be allowed to process a transaction using the magnetic stripe on the card.

Mr W asked for an ombudsman to review his complaint, so it has been passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Having considered everything, I've come to the same conclusions as the investigator for largely the same reasons. I'll explain why.

I won't set out all the transactions here, the investigator set these out in his opinion letter dated 28 May 2019. He detailed the value, date, time and type of each transaction including the method they were made. These totalled £10,200 and all but one were made using Mr W's genuine card with the PIN. I've not seen any evidence to contradict this and this does not appear to be in dispute by either party.

authorisation

In broad terms, the starting position in law is that a bank is expected to process transactions and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

Based on everything I've seen I'm satisfied Mr W authorised these transactions and I haven't seen anything to suggest anyone other than Mr W made the transactions. And, although

inconsistent at times, Mr W's own version of events doesn't suggest that he thought that someone else had made the transactions either.

That is to say I'm satisfied Mr W was the one entering his card and PIN and consenting to the transactions. I think Mr W accepts that he made them but perhaps can't remember the detail of doing so, but that doesn't make them unauthorised.

Although one transaction was made without the use of the chip in the card (the magnetic stripe was used instead), I'm still satisfied this was an authorised transaction made by Mr W for the same reasons I've given above. It isn't for me to consider whether the gambling company was entitled to execute a transaction in this way (as Mr W says). I'm considering the complaint against the bank only. And I'm satisfied Mr W authorised this transaction along with the others.

Mr W initially raised a dispute in December 2017 about transactions to the same gambling company. He was told they were made using his card and PIN, and I can't see that he continued to dispute these payments, only asking that a block be added to his card. Again, this would support that Mr W made all the transactions.

Overall, I'm persuaded Mr W authorised the transactions and therefore the starting position is that the bank is not liable to refund them.

the pattern of transactions

Mr W has suggested that previously, when making similar transactions he had been contacted by his bank to verify he was the one making them. That didn't happen here, Santander says the transactions don't appear unusual given Mr W's normal pattern of spending, so it had no reason to contact Mr W.

I haven't considered whether the pattern of transactions here was unusual or not, but if I had and concluded that they were I don't think it would have made a difference. I say this because I'm satisfied it was Mr W making the transactions. So, if Santander had intervened or contacted Mr W I think he would have confirmed he was making the transactions.

It might be that later on Mr W regretted the transactions or realised how much he had spent. But I don't think in the moment any contact from Santander would've prevented him spending the money that he did.

Mr W has also suggested that the gambling company should have blocked or prevented the transactions, but this isn't a matter for me to consider as part of this complaint.

loss suffered and the advice given

Mr W feels very strongly that Santander should have protected him and he thinks this because he was told transactions to this particular merchant would be blocked. Mr W says when he spent £10,200 on 08 February Santander didn't take any responsibility for his losses.

But Mr W continued to use other gambling companies on a regular basis, spending similar amounts. I can't see that Mr W raised disputes about these payments or gambling companies or asked for his card to be blocked in general from all gambling companies. So,

in reality it would be difficult for me to determine that he wouldn't have spent this money with other gambling companies even if his card had been blocked with one particular company.

I also agree with the investigators findings that Mr W used the same gambling company on two occasions, spending a total of £7,600 before the events on 08 February 2018. But after he thought the block was in place. The investigator concluded that Mr W was or ought to have been aware that his card hadn't been blocked at this time but he didn't raise it with the bank or dispute these payments either. Mr W has since said he doesn't remember these transactions. But I can see that following each of these transactions there are credits into his account for £2,250, £2,100 and £4,750 from the gambling company. This would suggest that Mr W doesn't remember or dispute these payments as he wasn't at a loss, in fact he appears to be £1,500 in credit. But he does dispute the payments on 08 February 2018 where he appears to have suffered a loss.

To reiterate I'm satisfied Mr W made these transactions had the benefit of being able to place the bets that he wanted, he just doesn't appear to have come out on top on this occasion. But that does not mean that he shouldn't be held liable for the transactions he made.

Overall it wouldn't be fair and reasonable to hold Santander liable for Mr W's spending here. I appreciate Mr W is going through a difficult time and that he feels Santander ought to have done more to protect him but the events here don't lead me to conclude that it should refund Mr W for the spending that he authorised.

I have also considered the compensation paid to Mr W, based on the incorrect information it gave him. I think this is fair in the circumstances and as I'm not upholding the complaint and I won't be recommending that Santander pay any further compensation to Mr W.

my final decision

As I've set out above, I do not uphold Mr W's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 8 February 2020.

Sophia Smith
ombudsman