

complaint

Ms K complains about what Santander UK plc did after she was the victim of a job scam. She phoned the bank and, based on what was said, she withdrew money from her account. Two days later Santander debited a fraudulent cheque for £2,200, sending the account into unauthorised overdraft. A default was later registered on Ms K's credit rating. Ms K would like the money back, 'bad debt' record removed, and compensation.

background

Ms K signed up online to a 'mystery shopper' job, and was sent a cheque for £2,200 which was paid into her Santander account in May 2012. The bank's policy on cheque clearance is that withdrawals are allowed from the end of the fourth day after a cheque is paid in, but there is still a risk that a cheque can 'bounce' until the end of the sixth day.

Ms K phoned Santander twice and was told her cheque had not cleared. She rang a third time on the fourth day and was told a higher '*available balance*' figure, which included the amount of the cheque. She withdrew money, but the fraudulent cheque was debited from her account on the sixth day, taking her account into unauthorised overdraft. She no longer had the money, because the people running the fraud had instructed her to transfer most of it into vouchers, giving them the voucher numbers and identification numbers.

Ms K complained to Santander, asking for the money to be written off, and asking that customers should only be able to withdraw funds when cheques paid in had been fully cleared. Santander said that Ms K was liable for the debt, issued a default notice in November 2012, and sent the account to an external debt-collection agency in April 2013. Ms K contacted us in June 2013.

Following our involvement, Santander looked again at the charges and offered to refund £80 which was eight months' standard monthly fee on her account. It said it had suspended other interest and charges, but the debt of nearly £2,000 would still have to be paid.

Our adjudicator listened to the phone call between Ms K and the bank on the fourth day. He said that the bank hadn't told Ms K that the cheque had cleared, and said Santander hadn't acted incorrectly by debiting Ms K's account. Ms K disagreed with this.

my findings

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

I'm satisfied that Santander does have the power to debit a customer's account when a deposited cheque turns out to be fraudulent, and it can do this up to the end of the sixth working day after the cheque is paid in. That's in the terms and conditions of the account and is usual banking practice.

Similarly, the bank is also able to register a default on a customer's credit rating, if the account is in debt and payments haven't been made. That's just providing accurate information for credit records, and there is no evidence that Ms K tried to reach an agreement with Santander about gradually paying it the money.

On the other hand, I quite understand that, during the phone call with Santander, Ms K might have thought that 'available balance' meant the amount that she could properly withdraw. But she asked what her balance was, not what her cleared balance was, and she didn't ask if the cheque had cleared. The information the bank gave her was correct.

Ms K didn't tell the bank about the nature of the underlying transaction, and I see no reason why the bank should necessarily have supposed that the cheque might not be paid. A bank has no duty to give advice. Santander chose not to give advice here and, while I realise my decision will come as a disappointment to Ms K, I don't consider I can fairly conclude that it did anything wrong.

It is still open to Ms K to accept Santander's offer of £80 for not stopping the monthly £10 charge on her account.

my final decision

My final decision is that I do not uphold this complaint – in the sense that I do not require Santander to do more than it has offered to settle the matter.

Belinda Knight
ombudsman