

complaint

Mr F complains that money has been taken out of his savings account with Santander UK Plc without his consent. Mr F's daughters, Miss F and Ms F, bring this complaint on behalf of Mr F as his attorneys.

background

I issued my provisional decision in July 2015, a copy of which is attached and forms part of this final decision. In my provisional decision I explained why I wasn't intending to uphold this complaint.

I asked all parties to let me have any further submissions before I reached a final decision. Miss F has responded by letter and says she doesn't agree with my provisional decision.

In summary, she says:

- Santander hasn't told the truth – for example, she says the bank didn't send her a letter confirming that the POA had been registered or offer her £50.
- the bank didn't help her when she went in to the branch.
- She does want 100% of the money that was in the joint account to be paid to Mr F.
- The other bank that she went to with similar problems handled matters very differently and her concerns were dealt with much better than Santander.
- The bank seemed too concerned with why it'd taken her so long to bring the complaint after the money had been taken out.

my findings

I have considered what Miss F has said alongside all the evidence and arguments already submitted in order to decide what's fair and reasonable.

It may be helpful at this stage for me to explain that, although Miss F has raised a number of concerns in response to my provisional decision, I've only addressed those I consider to be materially relevant to the complaint in hand.

Having considered all of the evidence, I've reached the same conclusions as set out in my provisional decision and for the same reasons. However, I'd like to make the following observations:

- With regard to Miss F's point that Santander hasn't told the truth, I've explained that where there's a dispute about what happened, I've based my decision on what I think's most likely to have happened.
- I also explained in my provisional decision that, as I see it, the key issue that I need to decide is whether Miss F visited the branch after the POA was registered, on 9 October, and before the money was taken out of the account and the account closed by Mr J, on 28 October. To decide this, I've looked at the evidence including the account audit history which shows when the account was looked at, where and by whom.

As a result of this, I don't think that Miss F did visit the branch after the POA was registered, on 9 October, and before the money was taken out of the account and the

account closed by Mr J, on 28 October. Because of this, I don't think that Santander should've done anything more when Miss F registered the POA or went into the branch to discuss it on 4 October.

Santander's offered Miss F £50 for the way it handled her complaint in the beginning and I understand that this offer is still open if Miss F wants to accept it.

my final decision

My final decision is that I do not uphold this complaint. So I don't think that Santander UK Plc should do anything to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F and Ms F, for and on behalf of Mr F, to accept or reject my decision before 12 October 2015.

Rebecca Ellis
ombudsman

extract provisional decision dated 29 July 2015

background

There are some differences between what Miss F has told us happened at different times and what Santander says she told the bank when she complained to it. I can't be certain what happened – or what was said. But the following is what I think is a reasonable summary.

In the 1980's, Mr F had an accident and went to live with his brother, Mr J, to be looked after. Miss F says that while Mr F was living with Mr J, all of Mr F's savings accounts were put into Mr F and Mr J's joint names.

Miss F says that all of the money in the Santander savings account was Mr F's. And she was worried Mr J would take it all out of the account. She says this was because she Mr J had already done this with other joint accounts that Mr F and Mr J held with a different bank.

So Miss F and Ms F obtained a power of attorney (POA) in August 2013. And on 3 October 2013, Miss F went into a Santander branch to discuss her concerns with the bank and register the POA on the account.

Santander faxed the form through to the POA team on 4 October 2013 with a note asking for the POA form to be '*actioned as soon as possible as family urgent require this to be done*'. The POA was registered on the account on 9 October 2013. And Santander says a letter was sent to Miss F on 9 October to confirm this.

Between 21 and 28 October 2013, just over £17,000 was taken from the savings account and the account was closed by Mr J. Miss F says that neither she nor Mr F agreed to this.

Miss F complained to Santander at the end of September 2014. She says it took her so long to complain to the bank due to personal reasons and also trying to find support for Mr F.

Santander says that, as this was a joint account, Mr J was entitled to withdraw money from the account even after the POA had been registered with the bank. And it says Miss F should've made contact after she'd had the letter confirming the POA had been registered if she wanted to do anything on the account. But it doesn't have a record of Miss F trying to take out the money or block the account after the POA had been registered and before the money had been taken out and the account closed by Mr J. So the bank won't return any money to Mr F. However, it accepted that it didn't handle the complaint very well and offered Miss F £50 for this.

Miss F says she didn't get the letter from Santander and she did go into the branch before all the money was withdrawn but the bank didn't give her the right advice. Miss F says that Santander should've allowed her to open up another account on Mr F's behalf and transfer all of the money into this account. She feels that Santander allowed Mr J to take Mr F's money when they knew there was '*fraud happening*'.

Our adjudicator looked at this complaint. She thought that Mr J was entitled to withdraw funds from the joint savings account. But she also thought that Santander didn't correctly advise Miss F and Ms F about POA procedures or give the best service in assisting them with their financial disputes. So she thought Santander should pay 50% of the amount that'd

been in the savings account to Mr F - nearly £8,600 - and £250 for the way the bank handled the complaint.

Miss F was happy to accept 50% of the money in the joint account but Santander didn't agree. So the complaint's been passed to me for a decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where there's a dispute about what happened, I've based my decision on what I think's most likely to have happened.

Having done this, I don't think the bank is at fault here. I explain my reasons for this below.

registration of the POA

I don't think the bank did anything wrong when it told Miss F that she couldn't do anything with the account until the POA had been registered with the POA team. I think the bank followed its own procedures when it registered the POA on the savings account. And I think it acted reasonably when it did this. It's not for this service – as an informal dispute resolution service, not a regulator - to comment on these procedures.

Mr J taking money out of the savings account

The account was opened in 2004 as a joint account between Mr J and Mr F and the account opening form confirmed that either party can sign to withdraw money or close the account. So I don't think that Santander did anything wrong when it allowed Mr J to withdraw money from the account, even after the POA had been registered with the bank.

Miss F taking money out of the account

As I see it, the key issue that I need to decide is whether Miss F visited the branch after the POA was registered, on 9 October, and before the money was taken out of the account and the account closed by Mr J, on 28 October.

If Miss F did, then I need to decide if she was given the right information about what she could do, as attorney for Mr F, with the joint account. And, even if the bank got this wrong, I'd still need to be satisfied that Miss F would've done something differently in order for me to tell the bank to do something to put things right. For example, I'd need to think that Miss F would've taken out all the money in the joint account and put it into an account in Mr F's sole name but that she didn't do this because of what Santander had told her.

If Miss F is right about all the money belonging to Mr F, it seems unlikely to me that she would've accepted the adjudicator's suggestion that she only get half of it back. I think it's more likely she would've wanted it all back.

However, I think it's important to say here that I don't think that the bank should tell a consumer (or their attorney) what they should do in a financial dispute.

Looking at the first point, in total, Miss F says she went to the Santander branch three times. Santander agrees with this but it doesn't agree that Miss F visited the branch on the second

time when she says she did. And it doesn't agree with what Miss F says she was told at the first or second visit.

first branch visit

Both Miss F and Santander agree that the first visit was on 3 October 2013 when Miss F completed the forms to register to POA on the account.

Miss F she says she wasn't allowed transaction information or to block or close the account until the POA was registered with the banks POA team. But she says she was told that, as the account was in joint names, Mr J could still take money out of the account. The branch member who Miss F saw broadly agrees with this. And I think that this is probably what happened.

However, Miss F also says that she was told she'd be contacted by the branch if anything happened on the account. And she says she thought this meant Mr J taking money out of the account. The staff member doesn't agree with this. I don't know what was said but I just don't think that it's likely that Miss F was told this. I say this because I don't think the bank could offer to automatically notify a person, who wasn't an account holder, as and when things happened on an account held with it. And I don't think that the staff member would've agreed to check the account manually herself when she'd already told Miss F that she wasn't allowed transaction information until the POA had been registered with the correct team.

second branch visit

Miss F says she went into the branch on 23 October and was told that all the money was still in the account. Miss F says that Santander should've allowed her to open up another account for Mr F and transferred all the money into that account. But she says she wasn't allowed to do this.

Santander doesn't agree. It says that Miss F visited the branch on 3 and 4 October and then again in November, after the account had been closed. It explains that the account audit history (AAH) confirms when the account is viewed. Santander says that, if a branch advisor had looked at Mr J and Mr F's account, there'd be a record on the AAH.

I've looked at the AAH and I can see that the account was accessed on 3 and 4 October 2013. Apart from the POA team accessing the account to register the POA and the withdrawals made by Mr J, the account wasn't accessed until 14 November 2013. The bank has spoken to the advisor who saw Miss F on both those days. Miss F has said that she had Mr F with her in the car. The branch advisor remembers this and has said that Miss F only had Mr F's passport with her which was out of date. And Miss F didn't have the account passbook. The advisor says she remembers telling Miss F that nothing could be done until the POA was registered on the account.

Taking the evidence into account, I don't think that Miss F spoke to an advisor who looked at the account on 23 October. I think this conclusion is also supported by the fact that the information Miss F says she was given wasn't correct because Mr J had started taking money out on 21 October. So I think that it's more likely that the second time Miss F went into the branch was on 4 October. This was before the POA was registered and so there wouldn't have been anything Miss F could've done on the account at that time.

third branch visit

Santander says its records show that account enquiries were made in branch on 14 November 2013 and this ties in with the final visit Miss F says she made. This was after all the money had been taken out of the account and the account had been closed.

summary

For the reasons set out above, I don't think that Miss F visited the branch after the POA was registered, on 9 October, and before the money was taken out of the account and the account closed by Mr J, on 28 October. So I don't think that Santander should've done anything more when Miss F registered the POA or went into the branch to discuss it on 4 October.

There's no doubt that Mr F and his family have had a difficult time. But, ultimately, I don't think that the bank is to blame for any money Mr F says he's lost from the Santander savings account he held with Mr J.

Santander's already offered Miss F £50 for the way it handled her complaint in the beginning and I understand that this offer is still open if Miss F wants to accept it.

my provisional decision

For the reasons set out above, I'm not currently intending to uphold this complaint. So I don't think that Santander UK Plc should do anything to put things right.

Rebecca Ellis
ombudsman