

complaint

Mr L complained about a charge that was applied to the account of company N with Santander UK Plc.

background

Mr L says that the charge was made due to the account being debited with a sum as a result of an error made by a third party. And the third party corrected the mistake within three days. Mr L says the charge was therefore unfair and also disproportionate to the overdrawn amount – he was seeking the charge be refunded and payment of compensation.

Given that a third party – not Santander - made the error, and the third party corrected the error itself, our adjudicator concluded Santander was entitled to apply the charge to the account for it going overdrawn. She considered that the charge was applied in line with what the terms and conditions entitled the bank to do and that there was no basis on which to say that the charge was unfair or too high.

The adjudicator therefore did not recommend that Santander should refund the charge or pay compensation.

Subsequently, however, Santander offered to refund the value of the charge as a gesture of goodwill in full and final settlement of the complaint. This seemed a reasonable basis for settlement of the dispute to the adjudicator who recommended to company N that it accepts the offer.

Company N has sought a review of the complaint by an ombudsman.

my findings

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

Mr L is dissatisfied that the charge was not refunded much sooner. He has quoted industry rules and maintains that it is not fair that he has had to pursue this matter in order to have a charge refunded that was only applied as a result of a third party's error in debiting the account.

It does not appear to be disputed that the payment, which caused the debit balance on the account, was not authorised by company N. I have not seen sufficient evidence to make a conclusion on that point definitively – but, as I say, Santander has not sought to dispute that the payment was unauthorised. Rather, it says that the payment caused the account to become overdrawn and the terms and conditions allowed for the charge to be applied in those circumstances – and there is no dispute either about the impact on the account's balance or what the terms and conditions provided for.

However, where a payment is not authorised, the bank should refund to its customer the amount of the payment to the account within a reasonable period and restore the account to the state it would have been in had the unauthorised payment not taken place.

On the basis that it is not disputed that the payment was not authorised, while the third party had already refunded the value of the payment, I consider that Santander ought also to have

refunded the value of the charge to the account in order to restore the account to the state it would have been in had the unauthorised payment not taken place. Of course, the bank has now agreed to make the refund of the charge, but I consider it would have been fair and reasonable for that refund to have been made sooner and I therefore consider compensation ought to be paid in recognition of the inconvenience that company N has suffered as a result of having to pursue this matter to the lengths it has.

I have noted what Mr L felt was appropriate to be paid to company N by way of compensation, when he referred his complaint here. And I appreciate that company N has been put to further inconvenience since then. However, sometimes things go wrong and it is in the nature of the role of a managing director of a company that they will be required to have dealings with other commercial organisations – including when dealing with the bank – which requires time to be invested and causes disruption with the need for correspondence and/or telephone calls. And I am not persuaded that such circumstances give rise for the need for compensation on every occasion, or that company N should be compensated at an hourly rate based on Mr L's earnings.

Taking everything into account, I consider that Santander ought to pay company N £100 compensation.

my final decision

In light of all I have said, my final decision is that Santander UK Plc must pay to company N, in full and final settlement of this complaint, £100 compensation in recognition of the inconvenience it has suffered.

Ray Neighbour
ombudsman