

complaint

Mr M complains that Santander UK Plc is chasing him for a credit card debt which he says is nothing to do with him. He wants the bank to stop trying to recover the money and pay compensation for the upset this has caused.

background

In 2013, Mr M repaid the full outstanding balance on his credit card account and did not use the account again for nearly two years. Mr M says that he went into branch and closed the account. In December 2015, four £300 cash withdrawals were made within two weeks. The card has not been used again, but this debt has not been repaid and interest and charges have been added to the account.

When Mr M realised Santander was chasing him for the debt, he informed the bank that he had not made the withdrawals. The bank checked its system and says that it has no record the account was closed. It confirmed the card used was the original as no further cards have been issued and the correct PIN was used for each withdrawal. Mr M said that the only other person who would have known his PIN number was his ex-partner. Mr M finds this upsetting and difficult because his ex-partner unfortunately passed away nearly two years ago and therefore could not have made these withdrawals.

The bank maintains that Mr M is liable for the debt and is using a debt collection agency. Mr M complains that this is harassment.

The adjudicator did not recommend the complaint should be upheld. He said it is more likely that Mr M did make the withdrawals in error, perhaps using the wrong card. He said the charges, interest and default had all been applied in accordance with the terms and conditions of the account.

Mr M does not agree. He says he is telling the truth and the debt is nothing to do with him. He has raised the possibilities that either his ex partner gave the card to someone else or that fraud has taken place on his account. He says it is unfair that he is expected to repay the debt when Santander have not produced any sort of evidence to back up its claim.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconsistent or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the surrounding circumstances.

It is not now possible for me to say exactly what happened when the four transactions were made. I have not been provided with CCTV and would not consider it reasonable to expect the bank to still have a copy of it after this passage of time.

I am satisfied the bank computer records are correct and whoever made the withdrawals had access to Mr M's credit card and knew his PIN number. I appreciate that Mr M says it is possible his ex partner had taken his card without his knowledge and could have told some unknown person his PIN number and that unknown person could have waited over a year

after Mr M's ex-partner passed away before committing fraud on the account. However, I have to decide what I consider is most likely to have happened.

I know it will disappoint Mr M, who is clear in his own memory that he did not use the card, but I consider this is the most likely explanation. I understand Mr M's strength of feeling, but Santander has satisfied me that Mr M's card was used with Mr M's PIN number. Because Mr M cannot provide any reasonable alternative explanation, it would not be fair or reasonable of me to say that Santander has made a mistake in applying charges, interest and the default in line with the terms and conditions of the account.

Once Mr M raised the issue about the identity of the person who withdrew the money, Santander investigated, but provided the information about the card and PIN number which suggests it was Mr M. I understand that Mr M is unhappy that the bank and the collection agency have written to Mr M at the address he provided and telephoned him. I am satisfied this is a reasonable way to contact customers with important information and the bank has not made a mistake in the way it has chased him for the outstanding debt.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 January 2017.

Charlotte Holland
ombudsman