

complaint

Ms K complains that Santander UK plc (Santander) made a Direct Debit payment from her account after she asked for it to be cancelled.

background

Ms K held a current account with Santander. The account didn't have an overdraft facility. On 17 December 2017 a Direct Debit payment was taken from Ms K's account by a phone company. The account went into an unarranged overdraft, and charges were added.

Santander was unable to contact Ms K about the account and overdraft. It sent a default notice and said credit reference agencies would be informed she'd defaulted.

Ms K complained to Santander. She wasn't happy the Direct Debit to the phone company hadn't been cancelled in December 2017. She said she'd visited a branch before the payment was made and asked for it to be cancelled. She said she'd moved house and hadn't received Santander's letters.

Santander responded and said it had no record of her asking to cancel the Direct Debit. But it agreed to waive the overdraft fees as a gesture of goodwill. And it removed the default from her credit file. It also said it wasn't responsible for her not receiving the letters as it was up to her to update her address when she moved.

Ms K referred her complaint to this service. Our investigator reviewed her complaint. They said they couldn't see any evidence Miss K had visited the branch. And they said Santander hadn't done anything wrong by sending her statements to the old address. Ms K disagreed with the investigator's view. She said she'd gone into the branch. And she thought Santander had deliberately put her account into an unarranged overdraft. She asked for an ombudsman's decision.

my provisional decision

In my provisional decision, I said:

The Direct Debit payment in December 2017

There's a dispute about whether Ms K visited a Santander branch and asked for the Direct Debit payment to the phone company to be cancelled. I need to decide what's more likely than not to have happened.

Ms K says she visited her local Santander branch on either 14 or 15 December 2017. She says she spoke to an advisor and asked to cancel a Direct Debit payment to a phone company. Santander said it had no record of this.

There's a note on Santander's records. It says Ms K visited the branch on 13 December 2017. And during the visit, Santander's records show the advisor accessed the Direct Debit entry to the phone company. But no change or cancellation was made.

The advisor she spoke with no longer works for Santander. So I can't get their account of what happened. I'm aware the date of the visit recorded on Santander's system differs from Ms K's account. But the difference is one or two days. I think Ms K may have been mistaken in remembering the exact date of her visit. The actual date is close enough for me to be satisfied it's the same visit. I'm also satisfied the Direct Debit entry to the phone company was discussed. I think it's more likely than not Ms K asked for the payment to the phone company to be cancelled.

Santander's said that even if it had cancelled the payment at Ms K's request, it would have still made the payment. This is because it would have received a request to pay it from the phone company. It would have assumed Ms K authorised the phone company to receive the payment.

The guidance on the Direct Debits website says a customer needs to inform their bank or building society to cancel a Direct Debit. It recommends notifying the organisation that is being paid. But it's not a requirement.

So I think Ms K did take the right steps to cancel the Direct Debit payment. She told Santander to stop making the payments to the phone company. And after visiting the branch she should reasonably have expected them to stop.

The unarranged overdraft and default

Ms K believes Santander deliberately put her account into an unarranged overdraft. But she's not provided anything to support this. I've seen nothing which makes me think it made the payment against Ms K's wishes deliberately so her account would go into an unarranged overdraft.

I've found it was Santander's error which led to the account going into the unarranged overdraft. So it follows that Ms K should not have been charged fees because of this. And because the fees should not have been incurred, her account should not have been defaulted. And a note should not have been added to her credit file.

Putting things right

Santander should refund Ms K the payment made to the phone company after she'd asked for it to be cancelled. This was for £8.93. But at that time the account was in credit by £7.38. So £7.38 is the amount which should be refunded. Ms K hasn't had access to this amount since 17 December 2017. So I think simple interest at a rate of 8% simple a year from that date to the date of settlement should be added.

References to the default have been removed from her credit file and it's waived the fees on the account. I'd have asked it to do this if it hadn't done so already.

I also think Santander should compensate Ms K to recognise the distress caused by its error. But I think this should be limited because Ms K hadn't been diligent in ensuring Santander could contact her. The fees increased and account was defaulted because Ms K hadn't contacted Santander about the unarranged overdraft. She didn't receive its correspondence. But she hadn't told Santander she'd moved. It's Ms K's responsibility to make sure her contact details are up to date.

I think Santander should pay £50 to Ms K to compensate her for the trouble and upset caused by their error.

the response to my provisional decision

Santander accepted my provisional decision and didn't have any further comments.

Ms K said she didn't think the compensation was sufficient. She said she'd been having issues with Santander since 2007.

my findings

I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also considered again my provisional findings, in particular the compensation I'd said should be paid in light of Ms K's comments.

Neither party appears to be querying my decision to uphold Ms K's complaint in part. I haven't seen anything to change this. But Ms K has said she doesn't think £50 compensation is sufficient. I don't think this amount should be increased. I explained why I'd limited the compensation to £50 in my provisional decision, and I've seen nothing to change my opinion on this. And I can't increase the compensation because she says she's had issues with Santander since 2007. I'm assessing her complaint about this matter only.

my final decision

For the reasons I've given, it's my final decision to uphold Ms K's complaint in part. I direct Santander to:

- Refund Ms K £7.38
- Add simple interest to this amount at a rate of 8% simple a year from 17 December 2017 to the date of settlement.
- Pay £50 compensation to Ms K due to the distress and inconvenience caused to her.

If Santander UK plc considers it should deduct income tax from any 8% interest element of my award it may do so, but should give Ms K the necessary certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 26 December 2019.

Ben Williams
ombudsman