

complaint

Mr I is unhappy with overdraft charges that Santander UK Plc have applied to his account since December 2016.

background

In November 2016, Mr I went overdrawn on his account due to one payment made in a store. Because he didn't have an arranged overdraft, Santander charged him a fee for the time he was overdrawn. This was at a rate of £6 per day – Santander's daily fee for unauthorised overdrafts. This charge was applied to his account in December 2016, causing him to go overdrawn again – which in turn resulted in another unauthorised overdraft charge that took him overdrawn yet again. This continued to happen each month – so Mr I complained to Santander at the end of 2017.

Mr I says the payment that originally took him overdrawn in November 2016 shouldn't have been authorised by Santander – as he had no money in his account. He also says the charges are unlawful and don't reflect the costs Santander are incurring because of his overdraft. And he thinks all of these charges should be refunded to him.

Our investigator didn't uphold Mr I's complaint, but he didn't agree. So the complaint has been passed to me to make a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done that, I've decided not to uphold this complaint. I know Mr I feels strongly about his complaint, so I think he'll be disappointed by this – but I'll explain why I think this is a fair answer.

Mr I says Santander shouldn't have allowed the card payment that took him overdrawn to have gone through. But when the payment was made in the store, Mr I wasn't overdrawn – so there was nothing to stop this happening. It was several days later than the payment came out of his account – and from what I've seen, this delay wasn't down to anything Santander did. So, I don't think they've done anything wrong here.

Mr I says the charges from Santander aren't proportionate to what his unauthorised overdraft has cost them – and the charges are unlawful and Santander are in breach of contract.

In 2009 a court case decided that bank charges can't be challenged on the grounds that they're too high – and I have to take this into account with my decision. But I can check if Santander have applied the charges correctly – in line with the terms and conditions of the account.

So I've looked at the terms that apply to Mr I's card – and they say that unauthorised overdrafts are charged at £6 per day. I've also looked through the charges that were applied to Mr I's account and from what I've seen I think they've been applied correctly.

With all that in mind, I don't think Santander have acted unlawfully or done anything outside of the terms and conditions they've set out.

Mr I says the charges are unfair because he's someone who's unemployed and struggling financially.

If someone's in financial hardship, we'd expect banks to act sympathetically and positively – but this doesn't necessarily mean it has to refund charges which have been applied in line with the terms and conditions of the account.

Looking at the information I have, when Mr I told Santander he'd lost his job, it looks like they refunded two monthly charges at £95 – in December 2017 and January 2018. They've also told us they didn't apply a further charge to his account after that. I can also see that Santander offered to put Mr I through to their team that help with financial difficulties – but it looks like Mr I didn't take that offer up. And although Mr I did keep going overdrawn each month, he did regularly pay this off. So I don't think the activity on his account alone was enough that Santander should've acted sooner to help Mr I.

Taking all of this into account, I don't think Santander necessarily needs to refund Mr I all the charges because of his financial circumstances. And I think they did try to help him. So I'm not upholding his complaint on this point – but it might still be worth Mr I getting in touch with Santander to see how they might be able to help him further.

Mr I has also asked that Santander supply him with further information about the charges they've applied to his account, including going back six years. And he's mentioned his rights with regards to the Bills of Exchange Act 1882. I don't think the Bills of Exchange Act is relevant to his particular complaint – but if he does want further information from Santander, he should get in touch with them directly. As I don't think Santander have done anything wrong here, I'm not going to ask them to do this as part of my decision.

my final decision

I've decided not to uphold Mr I's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 20 April 2018

Guy Johnson
ombudsman