

complaint

Miss L complains that Santander Cards UK Limited took unnecessary court action against her, did not accept that she had settled her store card account and took too long to resolve her complaint.

background

Miss L held two House of Fraser accounts administered by Santander: a store card account and a Mastercard account. When Miss L's store card account fell into arrears, Santander sent her a default notice, passed the account to a debt collection agent and obtained a county court judgment (CCJ) against her in December 2010.

Several days after judgment was entered, Miss L agreed to pay Santander £615 to settle the debt. She made two separate payments: a cheque for £50 and a debit card payment for £565. The debit card payment was correctly allocated to the store card account; however, the cheque was allocated to Miss L's Mastercard account. This left an outstanding balance of £50 on the store card account and, as the debt was not settled within 30 days of judgment being entered, the CCJ was registered against her.

Miss L first complained about her store card account in January 2011. Santander sent its final response to her complaint in March 2012. It sent this service a more thorough report into Miss L's complaint in August 2013.

Our adjudicator upheld the complaint. He concluded that Miss L had tried to settle the debt within 30 days of the CCJ being entered against her but Santander had mistakenly allocated her cheque to the Mastercard account. He also concluded that Santander did not give Miss L sufficient time to act on its default notice before transferring the account to its debt collection agent. Finally, he found Santander's handling of Miss L's complaint to have been poor. He recommended that it pay Miss L £550 for the distress and inconvenience this matter has caused her and send her a letter of apology.

Santander did not accept those conclusions so the matter was referred to me.

my findings

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

First, I am not persuaded that Santander acted rashly or inappropriately in taking court action against Miss L. Her store card account was in arrears and Santander issued a default notice in August 2010. It passed the account to a debt collection agent the following month. When Miss L failed to arrange a suitable repayment plan, Santander took court action. I am satisfied that the county court would have notified Miss L of the hearing and given her the chance to either make a payment offer or file a defence. Judgment was entered against Miss L in December 2010, four months after Santander issued the default notice.

Miss L's bank statement shows that a £50 cheque cleared her account on 5 January; a £565 debit card payment to Santander's debt collection agent cleared the following day. Miss L's bank has provided a copy of this cheque – it was made out to Santander, signed and dated 29 December 2010.

Following our investigation, Santander discovered a copy of the giro slip – also signed and dated 29 December 2010 – that was enclosed with Miss L’s cheque. This shows that, whilst Miss L wrote her store card account number on the back of the cheque, she enclosed it with a giro slip for her Mastercard account. Santander allocated the payment to the account number on the giro slip rather than the account number on the cheque.

Clearly there was a mistake by both parties here: Miss L inadvertently enclosed the wrong giro slip with her cheque; Santander did not notice that the account numbers did not match. I understand why each party blames the other for the mistake.

However, I find that Santander had numerous opportunities to resolve this matter but failed to do so. I do not consider it acceptable that Santander:

- failed to realise that the £50 cheque had been allocated to the wrong account until October 2011 – ten months after Miss L first complained that she had settled her store card account;
- argued that Miss L paid the £50 by giro when she provided a copy of the cheque stub in August 2011;
- then insisted that Miss L had quoted the wrong account number on her cheque without investigating further; and
- did not discover the cheque reference/giro slip mismatch until August 2013, over two and a half years after Miss L’s initial complaint.

Had Miss L paid the CCJ within 30 days it would not have been registered on her credit report. Santander “*wholly accepts [Miss L]’s intentions were to settle the store card account in full*” in January 2011. Santander offered – in March 2012 – to send Miss L a letter confirming that the debt was settled on 5 January 2011 so that Miss L could apply to the court for the CCJ to be set aside. It does not appear that Santander did so and it may be that the CCJ still appears on Miss L’s credit file.

I have no power to ask the court to set aside its judgment against Miss L; Miss L must apply to the court for this herself. Given the circumstances, I would not expect Santander to raise any objection and consider it reasonable for Santander to pay the appropriate court fee. For the avoidance of doubt, I do not order Santander to pay any other costs in respect of this application (such as solicitor's fees).

While I understand how Santander allocated Miss L's cheque to the wrong account, I am in no doubt that its subsequent failure to deal with Miss L's complaint adequately has caused her a great deal of distress and inconvenience. It is right that Santander compensate Miss L for this. Having considered the general level of awards this service makes in this area, I assess a fair award at £500.

my final decision

My final decision is that I uphold the complaint and order Santander Cards UK Limited to pay Miss L £500. Should Miss L want to apply to the court for the Santander CCJ to be set aside, Santander should pay this fee.

Simon Begley
ombudsman