

The complaint

Mr and Mrs Y complain that Santander UK Plc won't refund the money they lost when they were the victims of what they feel was a scam.

What happened

In early 2022, Mr and Mrs Y wanted to get some plumbing work done at their property. They spoke to someone they'd met previously at a local café, who said they could do the work. And after that person gave them a quote, Mr and Mrs Y agreed for them to carry out the work and made a payment of £5,425.30 from their Santander account to the bank details the person gave them.

Unfortunately, there were several delays before the work was started, the relationship between Mr and Mrs Y and the plumber broke down and no work was ever done. Mr and Mrs Y then reported the payment they had made to Santander as a scam, and asked it to refund the money they had lost.

Santander investigated but said this appeared to be a dispute between Mr and Mrs Y and the plumber, rather than a scam. So it didn't agree to refund the money they had lost. Mr and Mrs Y weren't satisfied with Santander's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They weren't persuaded there was enough evidence that a scam had taken place. So they thought this was most likely a civil dispute between Mr and Mrs Y and the plumber, and didn't think Santander should have to refund the payment. Mr and Mrs Y disagreed with our investigator, so the complaint has been passed to me.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I don't think it would be fair to require Santander to refund the payment Mr and Mrs Y made to the plumber. I'll explain why below.

Banks are expected to make payments in line with their customers' instructions. And Mr and Mrs Y accept they made the payment here. So while I recognise they now feel they have been scammed by the plumber they sent the money to, they did authorise the payment. And so the starting position in law is that Santander was obliged to follow their instructions and make the payment. So Mr and Mrs Y aren't automatically entitled to a refund.

There are certain activities banks are expected to carry out to try to protect their customers from falling victim to scams, and certain protections in place for customers who do fall victim to scams. Santander is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This requires banks to reimburse customers who have been the victim of certain types of scams, in all but a limited number of circumstances.

But customers are only covered by the code where they have been the victim of a scam – as defined in the code.

The CRM code defines a scam as where a customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person. Or where the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

The CRM code also says that it doesn't apply to private civil disputes, such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier.

So in order to determine whether Santander should refund the money Mr and Mrs Y lost under the CRM code, I need to consider whether they have been the victim of a scam – or, in other words, whether they were dishonestly deceived about the purpose of the payment to the point where they and the plumber intended different purposes for the payments and the plumber set out from the beginning with the intent to defraud them.

I've thought very carefully about this and I think it's a finely balanced matter in this case. But where the evidence available is unclear or inconclusive, I must make my decision on what I think is likely to have happened, based on the evidence I do have.

Mr and Mrs Y said they had previously met the person they paid to do the plumbing work several times at a local café. And they first started talking to them about the work when the person overheard Mr and Mrs Y talking about it at the café and suggested they could help. But this isn't how I would usually expect a scammer to get in touch with potential victims.

The reasons the plumber gave for the initial delays to the start of the work also don't seem particularly implausible or suspicious. Mr and Mrs Y have said the work was initially delayed by one week to allow time for the fittings to arrive, which I think seems reasonable. And the work is then delayed by a fire at the café and the plumber needing to fix the damage the fire caused to the café and some connected properties. And Mr and Mrs Y have confirmed there was a fire at the café at this time so, while I can understand it would be frustrating for them, I think it's plausible this would cause a delay to their work and I don't think this seems particularly suspicious or suggests the plumber was operating a scam.

I've also seen copies of some of the communication between Mr and Mrs Y and the plumber during this time. The plumber continues communicating with them and sending them detailed replies and updates for some time after the payment is made and after the work is delayed. And this is more contact and more detail than I would expect from someone who only intended to steal their money and never intended to carry out the work. It is only after Mr and Mrs Y ask to cancel the contract, to be refunded the money they have paid and for details of the plumber's solicitors that the communication stops – which I think suggests it is the breakdown in the relationship between them and the plumber which causes the communication to stop, rather than the plumber simply disappearing.

Mr and Mrs Y have mentioned that they've since found out the plumber has previous convictions relating to fraud. But from what they've sent us, these convictions were from a number of years before they had any contact with the plumber. And I don't think these previous offences, for which the plumber appears to have served their sentence, means their circumstances were necessarily a scam.

Mr and Mrs Y have also mentioned that the plumber is being investigated by a statutory body. But, despite several requests, they haven't been able to send us any evidence of the

outcome of this investigation or evidence that the investigation is connected to the circumstances of this complaint.

If significant new evidence subsequently becomes available which suggests the plumber was operating a scam, I would suggest Mr and Mrs Y raise this with Santander directly. And I would expect Santander to consider their claim in light of that new evidence. But, based on the evidence I have at the moment, I can't see that this investigation shows the plumber was operating a scam here.

I appreciate how Mr and Mrs Y feel about this case, and that the work they paid for has not been done. But I must make a decision on what I think is most likely to have happened. And, based on the evidence I've seen, I think it's more likely the plumber here was attempting to operate legitimately at the time and did intend to carry out the work, and that other factors ultimately meant the work wasn't completed.

I don't think the evidence I've seen suggests the plumber deceived Mr and Mrs Y about the purposes of the payment or set out from the beginning with the intent to defraud them. I think both Mr and Mrs Y and the plumber's intentions for the payment were the same – to carry out the work. So I don't think the circumstances here meet the definition of a scam from the CRM code.

And so I don't think the payment Mr and Mrs Y made to the plumber is covered under the CRM code, or that Santander should be required to refund the money they lost.

I sympathise with the position Mr and Mrs Y have found themselves in, and I'm in no way saying they did anything wrong or that they don't have a legitimate grievance against the plumber. But I can only look at Santander's responsibilities and, for the reasons I've explained above, I don't think it would be fair to hold Santander responsible for the money they lost.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs Y to accept or reject my decision before 12 April 2024.

Alan Millward
Ombudsman