

The complaint

Mr B complains that Santander UK Plc won't refund the money he lost when he was the victim of what he feels was a scam.

What happened

In May 2022, Mr B wanted to get some painting work done at his property. He found a painter on an online directory for tradespeople and agreed for them to do the work. Mr B then made a payment of £600 from his Santander account to bank details the painter gave him. But he says, after he made the payment, he couldn't get in touch with the painter again. So he reported the payment to Santander as a scam.

Santander investigated but said this appeared to be a civil dispute between Mr B and the painter, rather than a scam. It suggested Mr B pursue the painter directly and didn't agree to refund the payment he had made. Mr B wasn't satisfied with Santander's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They thought the evidence they'd seen suggested the painter was operating as a legitimate tradesperson, and didn't think there was enough evidence to say they had intended to scam Mr B. So they didn't think Santander was required to refund the payment Mr B had made. Mr B 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 B made. I'll explain why below.

In broad terms, the starting position in law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, where the customer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the customer even though they authorised the payment.

Santander is a signatory of the Lending Standards Boards Contingent Reimbursement Model (the CRM code). This requires firms 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.

The CRM code 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 decide whether Santander should refund the money Mr B lost under the CRM code, I

need to consider whether he has been the victim of a scam – or, in other words, whether the painter set out from the beginning with the intent to defraud him.

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 B says he found the painter through an online directory for tradespeople. But as this online directory carries out checks on the tradespeople listed on it, and shows reviews from customers for each tradesperson listed, this isn't how I would expect a scammer to get in touch with potential victims.

Mr B also says the painter used two different names, and that the name on the account he was asked to make the payment to was different than the name he was initially given. But I don't think it's uncommon for people to use different names professionally and privately, and the first name Mr B was given matches that on the account he was asked to pay. So I don't think this necessarily means the painter was a scammer.

It also appears that Mr B made another payment to the painter a few days earlier, and I wouldn't have expected him to have made two payments to the painter if he hadn't been able to get in touch with him or hadn't received the work he expected. I appreciate Mr B says the painter forced and tricked him into making the second payment, but he hasn't provided much detail on this and he didn't report the payment as a scam until a number of weeks later – which I also wouldn't expect if he had been forced to make a payment against his will.

I've also seen evidence relating to the account the payment was made to. And while I can't share specific details of this with Mr B, the account appears to have been run as I would expect a legitimate tradesperson's account to have been and nothing I've seen about the activity on the account suggests it was being used to operate a scam.

I appreciate how Mr B feels about this case, and that he says he has paid money and not received the work he expected. 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 painter here was attempting to operate as a legitimate tradesperson at the time and that other factors ultimately meant the work wasn't completed. I don't think the evidence suggests the painter set out from the beginning with the intent to defraud Mr B, or that Mr B has been the victim of a scam here.

So I don't think the payments Mr B made to the painter are covered under the CRM code, or that Santander should be required to refund the money he lost.

I sympathise with the position Mr B has found himself in, and I'm in no way saying he did anything wrong or that he doesn't have a legitimate grievance against the painter. 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 he lost.

Mr B has also mentioned a number of medical conditions he has, and that he feels he was vulnerable and the painter took advantage of this vulnerability. And I don't doubt what he says or intend to diminish the impact these conditions have on him. But, as I said above, I can only look at Santander's responsibilities and I don't think his medical conditions or this behaviour by the painter changes whether the payment he made is covered by the CRM code. So I still don't think Santander is required to refund the money he lost.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 February 2024.

Alan Millward
Ombudsman