

## **The complaint**

Mrs S complains that Santander UK Plc hasn't refunded her after she fell victim to a scam, losing money from her credit card account.

## **What happened**

Mrs S was looking to book some flights and found what appeared to be a legitimate travel agency online. She contacted the agency and made enquiries about the flights she needed. She was given a lot of genuine information about available options and was presented with a price that appealed, so she decided to go ahead and book.

What Mrs S didn't know at the time was that she'd stumbled upon a scam website. The travel agent she was dealing with was in fact a fraudster.

The fraudster used clever tricks, such as creating a genuine booking reference, before securing payment from Mrs S. But when she went on to authorise the payments for the flights, the money went somewhere she didn't intend.

Each payment required a One-Time Passcode (OTP) for it to be authorised. And one of the payments (for £1,095.44) was stopped for additional checks. Mrs S had to speak to Santander on the phone to verify it was genuine.

It appears flights were booked. But they were for people Mrs S didn't know and for trips she had no knowledge of.

The scam came to light when the booking reference Mrs S had been given no longer worked. She contacted Santander to report what had happened and to ask for a refund.

Santander looked into what had happened, initially refunding the disputed payments. But, once the investigation was complete, it re-debited the funds and said it wouldn't refund Mrs S. It said that she'd authorised the payments and so there was little it could do. Santander did raise chargebacks, but they were successfully defended by the merchants.

Mrs S was unhappy with how Santander dealt with the matter and with the outcome of her fraud case. So she brought a complaint to our service.

One of our investigators considered what had happened and didn't uphold the complaint. She said Santander had done what it could to try and recover Mrs S' money by raising the chargeback. She also said that, whilst she could understand Mrs S' frustrations in dealing with Santander and it taking a long time to get an answer, she didn't believe any compensation was due.

Mrs S remained dissatisfied and so asked that an ombudsman review her complaint.

## **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.

I'm sorry to hear that Mrs S has been the victim of a cruel scam. Such crimes can have significant effects on people, far beyond the financial loss. There's a mental and emotional impact too. I know a family trip was ruined because of the actions of a fraudster. I am

sympathetic toward Mrs S, but I'm reaching the same conclusion as our investigator. For broadly the same reasons.

I must consider the rules and regulations that are relevant to Mrs S' complaint. Most significant here are the Payment Service Regulations 2017. Broadly speaking, these state that a customer will be responsible for any transactions out of their account that are properly authorised.

There's no question as to whether Mrs S authorised the payments. She did agree to the money leaving her account, having provided her card details and confirmed the transactions using OTPs. That she did so under false pretences, and following the instructions of a scammer, doesn't change the position on authorisation. And so Mrs S is liable for the payments.

Santander did raise chargebacks when Mrs S reported the scam. But chargebacks follow rules that are set by the card scheme. And they aren't a legal right. When a complaint about a chargeback is brought to this service our role is to consider whether the bank has followed the correct steps. It isn't for us to determine the outcome of the underlying dispute.

The evidence we have shows the chargebacks were successfully defended. The merchants used did book flights and those flights were taken. And so Santander did all it could in the circumstances.

I can understand how that feels unfair and even illogical to Mrs S. But, as I've said, Santander have followed the correct process and so I can't say the answer it gave to Mrs S' complaint was unfair or unreasonable.

I've also thought about whether Mrs S might have any claim under section 75 of the Consumer Credit Act 1974. Broadly speaking, this sets out that in some circumstances a finance provider (here Santander, being the provider of the credit card account) might be held responsible for a breach of contract or misrepresentation on the part of a merchant. But even here a claim wouldn't be successful. Mrs S doesn't have the required relationship as she doesn't have a contractual connection to the merchants used. And, as with the chargeback, it would be difficult to evidence a breach of contract.

There's nothing else within the facts of the case that lead me to believe Santander ought to be responsible for Mrs S' loss. The transactions were properly authorised, and Santander had no reason to suspect that something was wrong. The transactions didn't appear particularly risky. When the higher value payment was being made Santander took extra steps to make sure it was genuine. I don't find it needed to do more in the circumstances.

I know Mrs S is unhappy with the service provided – and time taken – by Santander over the course of her claim. I can see how it would have been very frustrating to not have had the refund and for the matter to not have been dealt with quickly and efficiently. But I don't find there are grounds to say Santander ought to pay compensation.

The bank did provide a refund when the disputed transactions were raised, albeit a temporary one. And it did have to wait for the chargeback process to be completed. Much of the time taken was out of its hands. Whilst I'm not saying that everything Santander did was perfect, I don't find there were such significant errors that it ought now compensate Mrs S.

### **My final decision**

I don't uphold Mrs S' complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 3 January 2024.

Ben Murray

**Ombudsman**