

The complaint

Mr and Mrs S have complained Santander UK plc won't refund an online payment they didn't make.

What happened

Mr S complained to Santander about a payment of £2,980 that was made from his and his wife's joint account on 30 November 2022. He confirmed this couldn't have been him as he was abroad at the time.

Santander believed the factual evidence showed this transaction was made from Mr S's mobile device. Mr S hadn't reported being a victim of a scam, so they believed this payment had been authorised.

Mr S brought their complaint to the ombudsman service.

Our investigator reviewed the evidence but felt this showed Mr S authorised the payment.

Mr S still disagreed and asked for their complaint to be reviewed by an ombudsman.

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've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mr and Mrs S's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves. Other factors do apply but nothing else specific in Mr and Mrs S's case other than those factors I mention below.

So to help me decide what happened, I've looked at the evidence of the transactions, as well as what Santander and Mr S have told us.

I believe the evidence shows Mr S authorised the online transaction. I say this because:

- This shows the IP address used, when the payment was made, matches the IP address being used over the preceding week. This roughly matches the location Mr S has told us he was in whilst overseas.

- A new payee was set up in Mr S's own name to a different account. Although there was no match with name and account number, the individual making the payment confirmed they wished to proceed and confirmed they'd seen the fraud warning sent by Santander that they were making a payment to their own account.
- The data confirms the payment was authenticated by touch.
- Mr S hasn't told us his mobile was used by a third party.
- Mr S has told us he received an email from a third-party organisation saying he was due a refund just before this payment was made. But I've not seen this.

Like Santander, I did wonder whether this had the hallmarks of a scam. But I've contacted Mr S and asked him further questions to check whether there was anything else happening around this time or if there was further evidence he wished to provide. I received nothing further.

I am always wary of believing the customer must have made the transaction in the absence of any other explanation, but in this case I've been presented with no reason why this didn't happen.

Overall I believe the evidence points to Mr S making and authorising this payment himself. Whether he then regretted making this payment, I don't know. However I won't be asking Santander to do anything further.

My final decision

For the reasons given, my final decision is not to uphold Mr and Mrs S's complaint against Santander UK plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 2 October 2023.

Sandra Quinn
Ombudsman