

The complaint

Mr R complains that Santander UK Plc won't refund payments he says he didn't authorise.

What happened

In May 2022 transactions totalling over £6,000 were made from Mr R's current account. Mr R says he did not authorise any of these transactions, he says he was overseas at the time.

Santander investigated and decided not to refund the disputed payments. It said that the payments had been authorised using the device registered to Mr R's account, so it felt Mr R had made the payments himself or allowed them to be made.

As Mr R didn't agree with Santander's decision, he asked us to investigate.

Our Investigator didn't recommend the complaint should be upheld. They felt it was fair for Santander to conclude that Mr R had authorised the payments or allowed them to be made.

Mr R disagreed, so he asked for his 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, my review of the evidence has led me to the same overall conclusions as the Investigator previously set out.

The relevant law here is the Payment Services Regulations 2017, and broadly speaking Mr R is responsible for any payments that he has authorised (either by making them himself or allowing someone else to) and he isn't responsible for unauthorised payments.

I'm satisfied that Mr R's genuine account details were used to make the disputed transactions. But the regulations relevant to this case say that is not, on its own, enough to enable Santander to hold him liable. So I also need to think about whether the evidence suggests that it's more likely than not that Mr R consented to the payments being made. And from what I've seen, I don't think it's unreasonable to conclude that Mr R more likely than not consented to the transactions.

Mr R had mobile banking set up for his account, the device registered to mobile banking belonged to his wife as she helped him with his banking. Santander has provided evidence to show that the payments in dispute were made using the registered device, and were authorised using biometrics, meaning that a fingerprint or face scan was used to authorise the payments. Mr R has said his wife's phone was with them the whole time, and no plausible explanation has been put forward as to how an unauthorised third party could have used it to make payments.

I acknowledge that Mr R says he was overseas at the time, his comments about the legitimacy of the accounts the payments were made to, the location payments were made from, and the message and attempted calls he received from Santander. But nothing I've seen outweighs the compelling evidence provided by Santander which shows that the payments were made and authorised from a trusted device that Mr R had used previously and which appears to have been in his and his wife's possession at the time of the payments. There is no evidence to support that an unauthorised third party was involved in these payments.

So, taking everything into account, including all that Mr R has said, the evidence does not suggest to me that a third party was responsible for these transactions. It follows that I consider it is more likely that Mr R either authorised the transactions himself or allowed them to be made. I realise that this is not the outcome Mr R was hoping for, and he will no doubt be disappointed by the decision I've reached. But with all I've seen I cannot fairly and reasonably require Santander to take any further action in relation to this matter.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 24 August 2023.

Sophie Mitchell
Ombudsman