

The complaint

Ms F complains that Santander UK Plc won't refund two transactions made from her account which she says she didn't make.

What happened

In April 2023, a number of transactions were made from Ms F's Santander account which she says she didn't make. Ms F says she first found out about the transactions when Santander sent her a text message asking if they were genuine. She then realised her debit cards were no longer in her purse, reported the transactions as fraudulent and asked Santander to refund the money she had lost.

Santander investigated and refunded some of the transactions. But it said two cash withdrawals had been made using Ms F's card and PIN, and it couldn't see how someone else would have known Ms F's PIN. So it didn't agree to refund these cash withdrawals. Ms F wasn't satisfied with Santander's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They couldn't see how someone else would have been able to make the cash withdrawals without Ms F's consent, so didn't think Santander had acted unreasonably in refusing to refund them. Ms F 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.

As the other transactions have already been refunded by Santander, I haven't addressed them here and have instead focused on the cash withdrawals which haven't been refunded.

Generally a business can hold a customer liable for disputed transactions on their account if the evidence suggests it's more likely than not that the customer authorised the payments – for example, by making them themselves or telling someone else they could make them.

Deciding whether a customer has authorised payments is a two-part test. Firstly the payments must be authenticated, and secondly, the customer must have consented to the payments being made. And this doesn't necessarily require proving that the customer made the payments themselves, as it is possible for a customer to consent to someone else making payments on their account.

Santander has sent us evidence which shows the cash withdrawals were made using Ms F's genuine card and by entering her PIN. This means the withdrawals were correctly authenticated, and so I must also think about whether the evidence suggests it's more likely than not that Ms F consented to the payments.

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.

Ms F has said she didn't allow anyone else to use her card and has never told anyone else her PIN. She's also said her PIN isn't written down anywhere, except on her phone which she had with her the whole time. And that she hasn't changed the PIN since it was issued, so it isn't a memorable or easily guessable number. But, if this is the case, I can't see how an unknown thief would have been able to use her PIN to make these cash withdrawals.

Ms F says she hadn't used the card for several days before the disputed transactions were made. But opportunistic thieves tend to try to get as much money as possible, as quickly as possible, before they are detected or the source of the money is cut-off. So I think it's unlikely a thief saw Ms F enter her PIN, stole her card, but then waited several days to try to use it.

Santander's evidence also shows there weren't any incorrect PIN entries before the disputed transactions. So a thief who stole Ms F's card would have had to correctly guess the PIN first time. And given the number of possible number combinations the PIN could be, I think is very unlikely.

I appreciate how Ms F feels about this case, but I don't think the evidence here suggests the payments were made by an unknown third-party. And, based on the evidence I have and in the absence of any other likely explanation, I think it's likely she consented to the payments – either by making them herself or by allowing someone else to make them.

And so I don't think Santander has acted unreasonably in holding Ms F responsible for these cash withdrawals made from her account, or that it needs to refund these withdrawals to her.

Ms F has mentioned that Santander has been inconsistent by agreeing to refund some of the transactions she disputed, but not all of them. And that it blocked some transactions before the cash withdrawals, so knew there was fraudulent activity on her account at that time and shouldn't have allowed the cash withdrawals to be made.

But Santander appears to have refunded all the transactions made just using Ms F's card, but not her PIN. It's said it didn't agree to refund these cash withdrawals as they were made using Ms F's PIN, and it couldn't see how someone else would have been able to use this. So I don't think this is inconsistent and, as I've explained above, I don't think it was unreasonable to decide not to refund these cash withdrawals.

The transactions that were blocked on Ms F's account before the cash withdrawals were made also appear to have been blocked because her daily withdrawal limit had been reached, not because Santander had identified fraudulent activity on her account. So I don't think it was unreasonable for Santander to still allow the cash withdrawals to be made.

Ms F has also mentioned that disputed transactions were also made from an account she holds with another bank, and that bank has agreed to refund those transactions. But when assessing this complaint, I can only look at the actions of Santander. And, for the reasons I've set out above, I don't think it has acted unreasonably.

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 Ms F to accept or

reject my decision before 5 January 2024.

Alan Millward
Ombudsman