

## **The complaint**

Miss W's complaint is that Santander UK Plc didn't do enough to help her with a dispute about a purchase she made using her Santander debit card.

## **What happened**

In November 2022 Miss W bought an item from a supplier I'll call S. The item cost around £540 and Miss W paid S using her Santander debit card.

Miss W said she sent the item back to S in the box it came in as it was no longer needed. Having not received a refund Miss W said she contacted S and provided the parcel tracking details. S told Miss W it had located a parcel with the same tracking details but it was a bag of clothes and not the item Miss W said she returned. S said it couldn't provide a refund until Miss W returned the item.

Miss W asked Santander to help her get a refund. Santander raised what is known as a chargeback (a process available to a bank to recover money paid by its customer to a supplier). S defended the chargeback on the basis Miss W had not returned the goods to it yet. Miss W said she spoke with Santander over the phone after this and they took "all of the relevant information" and told her she didn't need to do anything else as it was an "open and shut case".

When Miss W spoke with Santander again it told her she hadn't replied to its request for information after S had defended the chargeback. So, it said it closed the dispute.

Miss W complained to Santander. It said it was too late for it to continue with her chargeback but said it had credited £75 to her account as compensation for 'poor service and journey'.

Dissatisfied, Miss W referred her complaint to this service.

An investigator didn't think Santander needed to put anything right. She said Miss W hadn't provided evidence in response to S's defence to the chargeback that persuaded her the chargeback would have been successful. So, she didn't think it was wrong for Santander to have accepted S's defence and end its pursuit of the chargeback.

Miss W didn't agree with the investigator so her complaint was referred to an ombudsman for further review.

## **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 am looking here at the actions of Santander and whether it has acted fairly and reasonably in the way it handled Miss W's request for help in getting her money back. This will take into account the circumstances of the dispute and how the supplier has acted, but there are also other considerations, such as the card scheme rules a bank has to follow and its own obligations.

Miss W paid S for the item using her debit card. This meant the only realistic option available to Santander to get her money back was to engage with a process known as chargeback.

The chargeback process provides a way for a bank to ask for a payment its customer made to be refunded. Where applicable, the bank raises a dispute with the supplier and effectively asks for the payment to be returned to the customer. While it is good practice for a bank to attempt a chargeback where the right exists and there is some prospect of success, the circumstances of a dispute means it won't always be appropriate for the bank to raise a chargeback. There are grounds or dispute conditions set by the relevant card scheme and if these are not met a chargeback is unlikely to succeed. The process provides an opportunity for a supplier to provide a defence to the chargeback and provide its own evidence in support of that defence. If the supplier continues to defend the chargeback the bank can either accept that defence if it believes it is valid, or, it can ask the card scheme to make a decision about who gets to keep the money – usually referred to as arbitration.

Santander raised a chargeback but S defended it. S said the package it received from Miss W contained a bag of clothes and not the item she said she returned to it. As part of the evidence provided in support of its defence S included a photo of the tracking label that matched the details Miss W gave it and the opened bag full of clothes. It also pointed out its returns conditions which said returned items would be checked at the warehouse and refunds would only be provided if the item was unused, opened and in its original condition.

Santander sent this evidence to Miss W on 6 April 2023 and asked for her rebuttal of S's defence, confirmation she returned the item and any additional information she felt would be of use. It said it would close the dispute in 14 days if it didn't receive this. This was a reasonable action for Santander to take seeing as the evidence S had provided in its defence appeared, at least on the face of it, to be quite compelling.

Miss W said she phoned Santander after this, spoke at length about the dispute and was reassured that all was in hand. Miss W said she thinks this would have been sometime in June or July 2023.

There were time limits set out in the chargeback card scheme rules within which Miss W's rebuttal evidence had to be provided. This is usually around 45 days from when the supplier issues its defence. It appears that by the time Miss W said she contacted Santander she may have been outside of this time. So, if the call took place when Miss W said it did, it appears it may have been too late for her to present any rebuttal evidence she may have been able to gather by then in any event.

I don't have a recording of the call between Miss W and Santander. But if Santander did tell Miss W that all was in hand, then it's possible this was wrong if it was already too late to provide her rebuttal evidence. In such event Santander should have explained to Miss W that she was out of time to take the chargeback any further at this point.

Santander wasn't at fault if time had run out on the chargeback. It explained to Miss W in its letter of 6 April 2023 that she needed to provide her evidence within 14 days. So, it had made it clear enough that the matter was time sensitive.

If however the chargeback rules did not prevent Miss W from submitting rebuttal evidence (or if Miss W's recollections are not clear and she spoke with Santander on the phone within 45 days of S submitting its defence to the chargeback), for me to fairly conclude that Santander should pay Miss W the cost of the item, I'd still need to find that this was the sum she lost out on as a result of Santander's alleged error. In other words, I'd need to conclude

that if Santander had continued to pursue the chargeback, it would most likely have resulted in her getting the money from S.

Having thought about this very carefully, I'm not persuaded this would have been the case. S had provided what appeared to be some quite compelling evidence that the package it received from Miss W was not the item she said she returned. So, it's likely Miss W would need to have provided even more compelling evidence to rebut this.

Miss W said that if Santander had been clearer that it still needed more evidence to rebut S's defence she could have got CCTV footage from the shop she used to prepare the parcel for return. She said this would have proved that she sent a cardboard box to S and not the bag that was in the photograph S provided.

Miss W said it's too late to get this now as the shop no longer has it. Looking at the defence S provided to the chargeback, it included an extract of an exchange of emails between it and Miss W within which it sent her the photograph of the bag of clothes it had received. This was in January 2023. So, I think Miss W would reasonably have been aware of the strength of evidence S might provide in support of its position before she even asked Santander to get involved and could perhaps have made enquiries of the shop as to the CCTV footage. Santander is not necessarily therefore entirely at fault for Miss W being unable to procure the CCTV footage.

In any event, I don't know now what the footage would have shown or if it would even have captured what Miss W said it would. And even if it showed her sending a different package to what S provided a photograph of, this still wouldn't have shown that S actually received the item in question from her – something it's likely she'd have had to evidence for her chargeback to succeed. It may have raised the possibility that the parcel was tampered with or switched somehow at some point on its journey before it reached S. But that's not a situation which neatly fits with the chargeback rules. So, it's not clear enough that it would be a reason for the chargeback to succeed.

I'm not persuaded on balance therefore that the chargeback would have succeeded if pursued more robustly by Santander.

Taking everything into consideration, Santander hasn't acted unfairly in declining to refund Miss W. A chargeback was raised and after this was defended by S, Santander didn't believe it had grounds for success if it pursued the chargeback further and based on the evidence provided this wasn't an unreasonable decision in the circumstances.

That's not to say that I do not believe Miss W when she says she has been the victim of the item being switched at some point on its journey, just that there is insufficient evidence to persuade me a chargeback would have succeeded. The chargeback rules are narrow. And the process is not the kind of determination of Miss W's legal rights that she may be able to obtain as part of a contractual dispute in court or a criminal investigation – where for example witnesses can be called and examined.

Santander paid Miss W compensation of £75 for 'poor service and journey'. It didn't provide any detail beyond this. However, given the likely error I identified above (i.e. not giving clear enough information about the chargeback) I find this to be fair compensation overall for any distress or inconvenience Miss W was caused. Santander's error did not cause Miss W to lose out on the refund but it did likely lead her to believe for a while that all was in hand and that she didn't need to do anything else – which wasn't the case.

**My final decision**

For the reasons I have explained. I do not require Santander to do any more than it already has.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 24 November 2023.

Michael Ball  
**Ombudsman**