

The complaint

Miss O complains that Santander UK Plc ('Santander') won't refund the money she lost when she was the victim of a scam.

What happened

Miss O says that she booked accommodation abroad through a well-known booking company. Soon after, she received a message to contact the manager of the accommodation via a messaging app to complete the reservation, which Miss O did. Miss O made a card payment of £530.67 on 27 March 2023 to the account details provided. She then received a message from the company that owned the accommodation to say that its page on the booking site had suffered a cyber attack and the previous messages she had received were fraudulent. Miss O was advised to contact her bank.

Miss O raised a dispute with Santander on 28 March 2023. Santander responded and said that Miss O's dispute didn't meet the criteria to ask for a refund from the retailer. Miss O was unhappy and raised a complaint with this service. Santander then considered a fraud claim which it also rejected on the basis Miss O authorised the payments.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. He noted that Miss O had made a one-off card payment that wasn't unusual in value or otherwise.

Miss O didn't agree with the investigator's findings and asked for a final decision, so her complaint has been passed to me to consider. Miss O said that a Santander agent told her in a call that she should be reimbursed because she was the victim of an impersonation scam, and she hadn't received what she paid for. With her response to the view Miss O also provided duplicate screenshots related to the scam.

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.

In deciding what's 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 time.

I recognise that Miss O is the victim of a scam, but this doesn't mean she's automatically entitled to a refund from Santander.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

Miss O made a card payment in this case, so I've considered whether Santander ought reasonably to have raised a chargeback. Chargeback is a process that allows debit and credit card holders to reverse a transaction when there's a problem with the goods or services they have purchased. It is organised and run through the overarching card scheme

(Mastercard in this case) but customers wishing to use the service must go through their card issuer (Santander here). The chargeback scheme is voluntary, and banks are not under any formal obligation to submit a chargeback claim.

This service's view is that it is good practice for a bank to make a chargeback claim where the right exists and there is a reasonable prospect of success. In this case I think Santander acted reasonably in not making a claim because there was no valid chargeback right against the recipient of Miss O's funds. This is because Miss O didn't send funds to the scammer directly, but to a money transfer service that provided the service it was meant to.

Santander also has long-standing obligations to be on the lookout for unusual and out of character transactions that might indicate a customer is at risk of financial harm. As the investigator has pointed out though, the scam transaction was relatively low in value and was in line with Miss O's normal account activity so there was no reason for Santander to be concerned.

The Lending Standards Board's Contingent Reimbursement Model Code (CRM Code) that provides for scam victims to be reimbursed except in limited circumstances doesn't apply in this case. This is because the CRM Code doesn't apply to card payments.

I understand Miss O says someone at Santander told her she would receive a refund. Even if this advice was given in error, it wouldn't be fair to ask Santander to reimburse Miss O.

Overall, whilst I recognise that Miss O is the victim of a scam and that the loss of her funds has had a big impact on her, I can't reasonably hold Santander liable for her loss.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 12 December 2023.

Jay Hadfield
Ombudsman