

## **The complaint**

Mr S complains that Sainsbury's Bank Plc declined his chargeback claim in relation to his wife's accidental purchase of unwanted extra theatre tickets using his credit card account.

## **Background**

On 30 September 2022 Mr S's wife, Mrs S, used her husband's Sainsbury's Bank credit card account to buy twelve theatre tickets for a performance on 7 October. She had only meant to buy three. Her purchase of nine tickets she didn't need came about in the following manner.

Mrs S began by visiting a website (not the theatre's but a third party's) and selected three seats. The total price to pay for this transaction was £195. However, when she confirmed the booking, there was a long wait, and then finally an error message appeared, telling her that her booking had been unsuccessful. Naturally, she accepted that message at face value, and tried again. The same thing happened two more times, and then she gave up. Mr S's daughter then managed to buy three tickets directly from the theatre's own website for £172.50 (and also paid for them via the same account). However, unknown to them all at the time, the original three transactions had actually all gone through. The first website had sold nine tickets and charged a total of £585.

Each of the first three transactions had resulted in a booking confirmation email being sent to an email address shared by Mr and Mrs S. They had arrived not immediately, but later that day. But Mr S says that he, his wife and his daughter had not been aware of this until they arrived at the theatre seven days later, and only then discovered that they had twelve tickets.

At the theatre, Mr S and his family chose to sit in the seats Mrs S had selected as her first choice. The other nine tickets were not used, and after the performance, Mrs S asked the box office by email for a refund. The box office told her that no refunds were possible after the performance, but it did confirm in writing that the other nine tickets had not been scanned, which proved that they had not been used. The box office suggested that she take the matter up with the third party website. When that was unsuccessful, Mr S (being the account holder) asked his bank for a refund.

In October 2022, Sainsbury's Bank opened a chargeback dispute for the second and third transactions (Mr S having used the tickets which had purchased first, and nothing having gone wrong with the fourth transaction). But the claim was declined on the ground that Mrs S had received the tickets she had ordered, and also because the relevant terms and conditions said that no refunds would be given except if a performance was cancelled. Mr S appealed against that decision, and that was unsuccessful also. But he never heard back from the bank about the appeal, and so he only learned it had failed when his card was declined in February 2023. He complained to the bank.

The bank did not agree that the chargeback should have succeeded. But it did uphold his complaint about poor customer service, and it paid him £75 for that. Being dissatisfied with that outcome, Mr S brought this complaint to our service.

One of our investigators considered this complaint, and she upheld it. She thought that the bank had misunderstood the basis of Mr S's claim. She said the bank should have used the chargeback reason "Transaction did not complete." She said that the error messages and the delayed confirmation emails meant that no contract had been completed between Mrs S and the first merchant, and so the merchant's refund policy was irrelevant. She thought a chargeback should have succeeded, and so she recommended that the bank refund the second and third transactions, £390, plus another £75 for the distress and inconvenience caused to Mr S by his chargeback claim being wrongly denied (in addition to the £75 the bank had already paid).

Sainsbury's Bank did not agree with that opinion. It said it had already considered the "Transaction did not complete" reason, but had ruled it out because the transactions had completed. The merchants had sent Mr S's wife and daughter their tickets. The bank asked for an ombudsman's decision.

I wrote a provisional decision. (When I wrote it, I thought that Mr S had bought all twelve tickets himself. In his reply to my provisional decision, Mr S explained that actually his wife had bought the first nine tickets, and his daughter had bought the last three. I have verified that this is correct, and I have made the necessary corrections to the Background section above. But I have left the provisional decision uncorrected below, to show what my reasoning was at the time.) That decision read as follows.

### **What I've provisionally 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 am not minded to uphold it. I will explain why.

Firstly, I am satisfied that Mr S's explanation for how he came to buy twelve tickets in the first place is entirely plausible and reasonable, and I accept it. (Indeed, it is not in dispute.) And I think that anybody in his position would have tried to buy tickets again, as he did, and would have ended up in the same predicament.

However, I think it was reasonable for the bank to decide that a chargeback dispute based on the reason "Goods or services not received" would not succeed, because the tickets were received. And I regret to say that I do not accept that Mr S did not know how many tickets he had bought until seven days after he bought them. Although the confirmation emails for the first three transactions did not arrive immediately, they did all arrive on the same day; it is not in dispute that Mr S received them. Of course, he was not expecting to receive them, but he was expecting to receive confirmation of the fourth transaction, and after his experience of the first website, I'm sure he would not have taken for granted that the fourth transaction had gone through successfully without checking. And by the time the confirmation email for the fourth transaction arrived, the email for the first transaction had already arrived. Moreover, I think it's unlikely that Mr S didn't look at his inbox for a whole week after that. So on the balance of probabilities, I think it's more likely that he knew he had twelve tickets ahead of the performance, but did not ask for a refund until afterwards.

That meant that nine seats were empty, when the vendor (or the theatre) could have sold them to up to nine other theatre-goers and made back some or all of the money that would have been refunded to Mr S if he had asked for a refund earlier. So I don't think it was unreasonable of the bank to take into account the vendor's refund policy. (Chargeback rules do not depend on contract law, and so I have not considered that; it is enough for me to say here that I'm satisfied that the refund policy was a relevant consideration under Mastercard's chargeback rules.)

I agree with the bank's analysis of the "Transaction did not complete" chargeback reason. The tickets were successfully purchased, and so the transactions were completed, notwithstanding the error messages that were displayed, or the slight delay (by an hour or so) of the booking confirmation emails. So I don't think that chargeback reason would have succeeded either, if the bank had pursued it.

My provisional decision is that I do not intend to uphold this complaint.

### **Mr S's response to my provisional decision**

Mr S did not accept my provisional decision. He explained that his wife and daughter had actually bought the tickets, using his account to pay for them. He said when his wife had arrived at the box office and had opened her emails to find and present the three tickets she was expecting to see, she had found nine additional tickets.

### **My findings**

In light of that information, I have reconsidered the evidence afresh. I have verified that Mrs S carried out the first three transactions, and her daughter carried out the fourth.

However, I am afraid that this has not changed my mind about this complaint. I have checked the relevant emails, and I can see that when Mr S's daughter received the email with the tickets she had bought, she forwarded that email to her parents' shared email account two minutes later, timed at 20:56. By then, the booking confirmation email for the first transaction had already been sent to that same email account 26 minutes earlier, at 20:30. The emails for the second and third transactions arrived half an hour after that, at 21:00.

So I remain of the view that it is unlikely that neither Mr nor Mrs S saw any of these emails until the night of the performance, seven days later. For that reason, I do not think it was unfair or wrong of Sainsbury's Bank to take the refund policy into account when deciding what to do with Mr S's chargeback claim. I am satisfied that if the bank had attempted to pursue a chargeback dispute any further, it would not have succeeded. And so I do not uphold Mr S's complaint about that.

I have seen the letter the bank sent to Mr S on 24 January 2023 to tell him that his appeal against its decision had been unsuccessful. It is correctly addressed. Perhaps he did not receive it, but I'm satisfied that it was sent.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 December 2023.

Richard Wood  
**Ombudsman**