

The complaint

Mr L complains that Santander UK Plc (“Santander”) refused to raise chargeback claims in respect of money held with two gambling merchants.

What happened

Mr L contacted Santander in February 2023 asking for help in retrieving money he’d deposited with two gambling merchants, both of whom had closed his accounts. Mr L says he sent completed documents to Santander to help with his claim, but unfortunately, he then had to leave the country because of a family matter.

Mr L contacted Santander while he was away and says they told him they’d closed his claim but didn’t tell him why. He then explained that he still wanted to proceed with this and Santander said they would send him further documents to complete. However, Mr L says there was a delay in him receiving these and, once he eventually uploaded them, was told that he was out of time to raise the claim.

Mr L complained to Santander, but they didn’t uphold the complaint. So, Mr L referred the matter to us. Our investigator didn’t recommend that the complaint should be upheld. Mr L didn’t agree and so his complaint has been passed to me for a decision.

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 want to acknowledge I’ve summarised the events of the complaint to quite some degree. I don’t intend any discourtesy by this – it just reflects the informal nature of our service. I’m required to decide matters quickly and with minimum formality. But I want to assure Mr L and Santander that I’ve reviewed everything on file. And if I don’t comment on something, it’s not because I haven’t considered it. It’s because I’ve concentrated on what I think are the key issues. Our powers allow me to do this.

Where the evidence is incomplete, inconclusive, or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

In certain circumstances, when a cardholder has a dispute with a merchant, as Mr L does here, Santander (as the card issuer) can attempt a chargeback. The process involves the card issuer disputing payments made on the card through a dispute resolution scheme operated by the companies which run the card networks, which in this case is Mastercard. I would normally expect a credit card issuer to attempt a chargeback if there was a reasonable prospect of this achieving a successful outcome.

Mr L says the purpose of raising the chargebacks was to recoup the money that was sitting in the accounts with the gambling merchants. So, he wants to reclaim payments he made from his Santander current account to those merchants. These were payments of £500, £250, and £250 that he made to one merchant on 6 January 2023 and payments of £100, £53, £200, and £137.50 that he made to the other merchant between 18 and 19 January 2023.

I note Mr L says that Santander didn't help him with his claim and eventually closed these down. It's difficult for me to be reasonably sure that this was due to errors on Santander's part although I have no reason to doubt Mr L's version of events.

I would say though that I'm not particularly persuaded that Santander correctly considered the claim Mr L was making anyway. I say this because it seems Santander were considering any chargeback rights Mr L had under the reason code 'goods/services not received'. I understand though that Mr L told Santander he had deposited money with both gambling merchants, and they were refusing to return this to him. So, it seemed clear that Mr L hadn't purchased any goods or services; this was money he had deposited that he wanted returned.

I understand that Mr L held a Mastercard debit card at the time and this card was used to make these transactions. I have looked at the chargeback rules that were applicable at the time which set out the following under the 'credit not received' section and under the sub-heading 'Gambling and Investment Chargebacks'.

'Chargebacks are available to the issuer for transactions in which value or assets are purchased for gambling, investment, or similar purposes and they are not provided according to the contractual terms and conditions agreed to between the cardholder and the merchant.'

Additionally, chargebacks are available when the value or assets are made inaccessible for use in violation of the contractual terms and conditions. This may include, but is not limited to, when the value or assets are unable to be withdrawn by the cardholder or are transferred to an account outside the cardholder's control without the cardholder's authorization. An issuer has no chargeback rights related to the use or authorized transfer of such value or assets, or on any winnings, gains or losses resulting from the use of such value or assets.

An example includes, but is not limited to, when the value or assets are subsequently exchanged or otherwise utilized in a separate, non-Mastercard transaction'.

I think this was the specific rule that Santander should have considered as Mr L said he was trying to reclaim money he had deposited. He wasn't for example trying to recover losses or winnings; from what I've seen at least.

However, even if Santander had raised chargebacks in respect of the money Mr L sought to reclaim from both gambling merchants, I don't think this would have been successful. I appreciate that I won't know this for sure bearing in mind Santander didn't raise them. But even if I was to find that Santander had made an error in not raising these, I don't think this would have made a difference.

I say this because it's clear both gambling merchants had refused Mr L's request. So, it's likely I think that both chargebacks would have been defended in the same way and that likely would have been enough to say that Santander wouldn't have taken things further. It wasn't, for example, that the merchants had failed to engage on the claim Mr L was making. And it's important to note that chargebacks are decided based on the card scheme's rules, not the relative merits of a cardholder/merchant dispute or any legal rights a cardholder has in relation to the dispute.

Overall, while I'm not particularly convinced Santander handled this issue correctly, I don't think their failure to raise chargebacks led to Mr L being unfairly deprived of the chance to reclaim the money that he says he's owed.

So, for the reasons set out above, I don't uphold this complaint.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 12 April 2024.

Daniel Picken
Ombudsman