

## **complaint**

Mrs L is unhappy that Santander UK plc won't refund disputed transactions totalling around £70,000. Mrs L's representative, Mr F, brings the complaint on her behalf.

## **background**

Mrs L had a lodger, Mr N. He said he was her nephew. He acted as her carer. He was a frequent visitor to her house from 2009. In 2013 he moved in permanently. Mrs L says that Mr N gained her trust.

Between July 2011 and March 2014 numerous cash machine withdrawals were made from Mrs L's Santander account. Several transfers and counter withdrawals were also made in branch. These were all made at two local Santander branches.

Mr F says that Mr N manipulated Mrs L into making the branch transfers and withdrawals. He also says that Mr N intercepted her debit card and Personal Identification Number (PIN). Mrs L didn't know about the cash machine withdrawals.

Santander says that Mrs L made the transfers willingly. It also says that it was likely that she had given Mr N access to her debit card and PIN.

Our adjudicator found that Santander had done nothing wrong. She found that it had followed Mrs L's instructions. The adjudicator also said that it was difficult to say that Mrs L didn't know about the cash machine withdrawals. So Santander hadn't made a mistake by not refunding these transactions.

Mrs L wants an ombudsman's review. She insists that Mr N has acted fraudulently.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

In cases like this, where the evidence is contradictory, I reach my decision on a balance of probabilities. That means I'll look at all the available evidence. I'll then decide what I think is most likely to have happened.

Mr F has made numerous arguments in support of Mrs L's complaint. Whether her lodger committed fraud is for a court to decide, not me. My role is to focus on what I consider are the main issues here. Did Santander do anything wrong when it let Mrs L make the transfers in branch? And did Mrs L authorise the cash machine transactions?

### *branch transfers and counter withdrawals*

Santander's staff at the two branches remember Mrs L's visits. Each time Mr N was with her. For most of the transactions, the bank asked for proof of identity. Mrs L provided this. The staff say that she seemed happy in Mr N's company. She told them he was her nephew. They say Mrs L didn't appear to be under any pressure from him. For the counter withdrawals, the cash was always given directly to Mrs L. It was never given to Mr N.

Santander didn't ask Mrs L what the money was for. But given what I have seen, I am satisfied that Mrs L wouldn't have told the bank anything that would have made it concerned.

On balance, I am satisfied that Mrs L was happy to make these transactions. I am also satisfied that Santander acted fairly and reasonably.

#### *cash machine withdrawals*

In December 2013, Mrs L ordered a debit card on her account at a Santander branch. This was sent to her home address. Her PIN was sent to her separately.

Mr F says that there is evidence that Mr N intercepted the debit card and PIN. Mrs L says that she keeps her cards inside her purse under her pillow. I accept that she ordered the debit card. If she didn't then receive it, I am satisfied she would have told the bank.

Again, given what I have seen, I am satisfied that it is more likely than not, that Mrs L allowed Mr N access to her debit card and PIN. So, on balance I am not satisfied that the cash machine withdrawals were unauthorised.

I can see that at the time of the disputed transactions, Mrs L had a trusting relationship with Mr N. He was her lodger. He also acted as her carer. I accept that Mrs L is now unhappy with the transactions involving him. But on balance, I am satisfied that at the time she wanted them to proceed.

#### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr F, on behalf of Mrs L, to accept or reject my decision before 10 July 2015.

John Miles  
**ombudsman**