

The complaint

Mr P complains that Tesco Personal Finance PLC, trading as Tesco Bank ("Tesco") didn't pursue a chargeback claim for him and that they were unreasonable not to fully uphold a claim he made to them under section 75 of the Consumer Credit Act 1974 ("section 75").

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving reasons for my 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 agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

Mr P has provided extensive documentation here. It's been very helpful, and I've read and considered it all. I mean no disrespect if I don't refer to all of the points Mr P has raised as it's necessary for me to concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Tesco didn't process a chargeback claim because the card scheme administrator's rules didn't allow them to claim for consequential losses and also because the rules didn't allow a partial claim to be made. I think that was reasonable in the circumstances as the claim couldn't have succeeded on that basis.

However, when something goes wrong and the payment was made with a credit card, as is the case here, it might be possible to make a section 75 claim. This section of the Consumer Credit Act (1974) says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider as against the supplier if there's either a breach of contract or misrepresentation by the supplier.

From what I can see, all the necessary criteria for a claim to be made under section 75 were met.

There are several aspects to Mr P's complaint. I'll consider each in turn.

Was the work necessary?

The supplier's quotation said the work was for: *"loft clearance, one month rat control, proofing materials for internal only, loft material to be reinstalled to min requirements only. Waste for loft material only"*.

There appears to be no question that the loft was cleared, that poison was laid to control rats, that proofing was applied to prevent rats getting into the loft, in part at least, and that insulation, was removed but not replaced when there was a subsequent cost dispute.

The report Mr P acquired from another company, I'll call them "S", suggests the internal proofing was unnecessary. They also dispute whether it was necessary to remove the insulation and they suggest external proofing was inadequate.

I'm not persuaded that S's view alone is sufficient to suggest the work was unnecessary. Whilst I note S's view that the internal proofing didn't prevent rodents from entering the wall cavities it seems likely it would have prevented rodent access through the gaps it screened. I think it could therefore be fairly considered to be a helpful barrier. It may not have been a comprehensive barrier but, as S couldn't find trace of rodent activity I think that suggests it had been effective and suggests it was necessary. Mr P says the extensive baiting would have killed any rats that were still present so it's not unusual for there to be no rodent activity. I think that's likely to be the case, but there's no mention of dead rats in the S's report or of the smell of dead rats, so I think it's likely they were eliminated by the supplier's actions. There's no mention of external proofing in the quotation from the supplier so I don't think it would be reasonable to suggest this was part of the contract or needs and remedial action.

I'm not asking Tesco to refund any money in respect of the work being unnecessary.

The insulation

It's not possible to establish whether the loft insulation needed to be removed as it's now been disposed of and the level of infestation can't be established. As Tesco have agreed to replace the insulation using the mid value quotation Mr P has provided, I don't think it's necessary to consider this any further. Mr P will be put back in the position he would have been in had the insulation not been removed. I'd agree that's an adequate resolution.

The work that hasn't been completed.

S identified gaps in the wire proofing. There was a whole section that hadn't been proofed and there were gaps around pipework that needed to be filled. One of three rubber seals around the rain water pipes had also not been replaced. I've already explained why I think this work wasn't unnecessary but as internal proofing formed part of the contract I think Tesco should pay for, or refund the cost of, that remedial work. Mr P has suggested the cost for the seal on the rainwater pipe is £11.60. The need for that work has been evidenced and I don't think the suggested charge is excessive. I think Tesco should pay that without sight of a quotation, but Mr P will need to obtain a quote for the other incomplete work so Tesco can fund it.

Redecoration

I've reviewed the photographs Mr P has provided of the damage to his ceilings. The photographs don't clearly show damage in *each* room but there is evidence of damage. There are holes, damaged plasterwork, and an area that's been repaired but not redecorated. I understand that given the passage of time Mr P has repaired some areas

already. Unfortunately, it's not possible to establish the ceiling condition before the work commenced to make a comparison with its current condition. I therefore don't think I have sufficient evidence to suggest that *all* ceilings need to be redecorated but I am persuaded there has been damage and quite significant damage and I think the investigator's suggestion that Tesco share the repair cost is fair. The investigator suggested Tesco should therefore pay Mr P £1,630 as that was one half of the quotation received in October 2020; that seems reasonable.

Putting things right

I'm asking Tesco to put things right in the way I've set out above and summarised below.

My final decision

For the reasons I've given above I uphold this complaint in part and tell Tesco Personal Finance PLC to:

- Pay £11.60 to cover the cost of the missing seal on the rainwater pipe.
- Refund £2,850 for the cost of the loft insulation.
- Cover the cost to mesh the missing section and to cover the holes around pipework in the supporting brick walls – subject to receiving a quote for the work from Mr P.
- Pay Mr P £1,630 of the quoted amount to redecorate his ceilings.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 5 January 2023.

Phillip McMahon
Ombudsman