

The complaint

Mr W complained because Tesco Personal Finance PLC refused to refund him for a transaction he said he didn't make.

What happened

On 9 January 2023, a £420 payment debited Mr W's Tesco credit card. When Mr W received his statement, he contacted Tesco and said that he hadn't authorised the payment. He hadn't lost his card, and his phone was protected by face ID, with a passcode to enter his online banking.

Mr W had made previous genuine payments to a sports club, most recently on 31 December 2022 for £286.11 and £221.05. The recipient name on his statement for the disputed transaction was similar to the name of the sports club, but not identical.

Tesco issued a replacement credit card to Mr W and investigated. It found that the disputed £420 payment had been made using Mr W's registered phone. It had been authenticated using two-factor identification. The IP address (a unique computer identifier) showed that the disputed transaction had been carried out at the same IP address which Mr W had used for undisputed payments.

Tesco also contacted the sports club. It asked for information about the £420 transaction on 9 January. But the club's accountant replied that it confirmed receipt of a £200 top-up to Mr W's membership account on 9 January, which it had received by debit card payment. The club didn't reply at all about the £420 credit card payment.

Tesco told Mr W it couldn't refund him for the £420 disputed payment, which had been made using Mr W's usual device.

Mr W replied on 27 June. He said that the name of the recipient organisation on his statement was different from the genuine payments he'd made to the sports club. He also said that he wanted Tesco to make enquiries through the credit card company, about where the money had gone, because he said that would prove it hadn't gone to the sports club. He believed the sports club had told Tesco it hadn't received £420. He said his genuine payments to the sports club weren't in round amounts. He said he also wanted to know how Tesco knew the payment had been made from his usual device. Mr W said that until that happened, he wouldn't be paying the £420 or related interest.

Tesco sent its final response to Mr W's complaint on 14 July. It said that:

- the sports club's website showed the name which had appeared on Mr W's credit card statement as the recipient of the £420;
- the debit card £200 payment to the sports club had been a round amount, so the £420 payment wasn't the only round figure;
- the sports club hadn't said anything about the £420 credit card payment, when Tesco had asked, but had given information about a £200 debit card payment instead;
- for security reasons, Tesco wouldn't disclose how its computer systems worked, in relation to how it knew the device and IP addresses used for transactions;

- the credit card payment had been made through the credit card company, with that company paying the merchant direct. Tesco couldn't see the recipient bank details and it wouldn't be taking this further with the credit card company;
- as a gesture of goodwill, Tesco waived the interest for one month.

Mr W wasn't satisfied and contacted this service.

Our investigator looked at the evidence provided by both sides. He also contacted the sports club himself in January 2024, and asked about the £420 payment. The club sent a short response just saying that this had been resolved in July. The investigator wrote again. He explained that Mr W had brought the complaint to this service after July when the club had said it had been resolved – so Mr W must have changed his mind and decided it wasn't resolved. He asked whether Mr W had been refunded, or if he'd accepted that he'd made the payment, and for more details about how it said the matter had been resolved. The sports club didn't reply.

The investigator didn't uphold Mr W's complaint. He said that Tesco had provided a list of 14 other customers who had made payments to both versions of the sports club's name, and none of these had disputed any of the transactions. So it was unlikely they were different merchants. And Mr W had made another, undisputed, transaction to a different merchant using the same device and IP address, only 10 minutes from the disputed one. Mr W's usual device had been used, and he'd said no-one else had access to that. So the investigator concluded that Mr W must have authorised the transaction himself.

Mr W didn't agree.

He said that the investigator's report focused on the information which Tesco had provided, and ignored the information he had sent. He said the sports club had sent Tesco a letter on 27 July, which stated that it didn't request £420 from Mr W, and it hadn't received that amount into its bank account. Mr W said it seemed that the investigator hadn't considered this. He also said he'd asked Tesco several times to investigate where the funds had been sent, which would prove the sports club hadn't received the money. He said neither Tesco nor the credit card company had looked into that, and he asked for that to be considered.

Mr W also said that the investigator's report was biased towards Tesco, and didn't make any mention of information the sports club had sent, or the account to which the £420 had been paid. So he asked that an ombudsman should consider his complaint, and that this should include considering:

- the sports club's letter to Tesco which confirmed it hadn't requested £420 from Mr W and hadn't received this sum;
- finding out from Tesco or the credit card company about the bank account to which the £420 had been paid, which Mr W had asked for on a number of previous occasions.

The investigator replied to Mr W that Tesco had confirmed that the money had been paid to the sports club as it had provided a list of 14 other customers who had paid undisputed payments to the same sports club, under both versions of its name. The investigator also pointed out that Mr W had made an undisputed payment within ten minutes of the disputed £420 payment, on the same device and using the same IP address. He asked Mr W if he had an explanation for how this could have happened. The investigator also explained that he had contacted the sports club, but it had said it believed the issue had been resolved in July 2023, without giving any more information.

Mr W's complaint was passed to me for an ombudsman's 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.

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them. This means that what I have to consider is whether Mr W, or an unknown third party, is more likely to have authorised the disputed transaction.

I recognise that Mr W wants a full investigation into where the disputed money went. But that's not what the Regulations say. What determines the outcome is who authorised the payment, not where it went. If Mr W didn't authorise the payment, Tesco must refund him. If Mr W did authorise it, he's liable for it. When reaching my decision, I look at all the evidence to decide what's more likely than not to have happened.

Also, I accept that Tesco doesn't have information about where the money went. It's the credit card company (the "card scheme") which would have that information, not Tesco (the "card issuer").

Looking at the key question of whether Mr W, or someone else, authorised the disputed payment, the technical computer evidence is particularly relevant. I recognise that Mr W wanted to know how Tesco's systems showed that the transaction had been made using his device, and what IP address was used. The details of Tesco's systems can't be disclosed for security reasons. But I've seen Tesco's technical computer evidence - not just an email from Tesco saying what it showed.

That computer evidence shows identifiers which record the device, and IP address, on which the transaction was carried out. This shows the transaction was authorised using Mr W's phone. This phone, which Mr W said was protected by face ID, was also used for the undisputed transaction ten minutes later. Similarly, I've seen the IP address on the computer records. This is the same as other undisputed transactions authorised by Mr W.

I can't see how any third party could have fraudulently obtained Mr W's phone without his knowledge, accessed it through Mr W's face ID, known the passcode for his online banking, carried out the disputed £420 transaction, and returned the phone to Mr W without his knowledge in time for his undisputed transaction ten minutes later. So the computer information provides strong independent evidence that it was Mr W who authorised the transaction.

I'm not persuaded that the two slightly different versions of the sports club's name, on Mr W's statements, make any difference here. As Tesco said, the version on the disputed payment is a version which is on the sports club's website. Tesco also provided evidence of other Tesco account holders who made undisputed payments to the sports club with the same reference name.

In Mr W's 27 June letter to Tesco, he said he believed the sports club had told Tesco it hadn't received £420. But as I've set out above, the sports club's accountant replied to Tesco's request with information about a completely different transaction, for a different amount, on a different date, and paid by debit card not by credit card. The club's reply to Tesco's question about the £420 credit card payment didn't mention that payment at all.

Mr W kindly provided us with a later, 27 July 2023, letter from the sports club to Tesco, saying that it wasn't owed any money by Mr W and hadn't received any. As I've set out

above, in January 2024 we asked the sports club for more information. Unfortunately, it just said the matter had been resolved in July. But it couldn't have been, because Mr W had brought his complaint to us after that. So we wrote again, but the sports club didn't respond to us at all. So I don't have any reliable evidence from the sports club about its version of what happened.

Taking all this into account, I can't see how anyone other than Mr W could have authorised the disputed transaction. So Mr W is liable for the payment, and Tesco doesn't have to refund him.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 April 2024.

Belinda Knight
Ombudsman