

The complaint

Mrs C complains that Tesco Personal Finance Plc won't help or refund her for her dispute about a swim spa.

What happened

Mrs C's Tesco credit card account was used to pay a supplier for a swim spa and associated items in June 2023. Mrs C says that the swim spa was damaged and the supplier wouldn't fix the issues. So she complained to Tesco.

Tesco looked into the matter and wouldn't help her with her dispute with the supplier or refund her for her loss. It said that she was out of time raising the issue with Tesco for it to raise a chargeback dispute with the supplier. It also said that due to the cost of the swim spa it was outside of the financial limits imposed by the Consumer Credit Act 1974 and accordingly Tesco couldn't be held liable for the damage in any event. Feeling that to be unfair, Mrs C brought her complaint to this service.

Our investigator looked into the matter. Overall, she felt that Mrs C hadn't satisfied the requirements to make a claim under Section 75 of the Consumer Credit Act 1974 ('S75' and 'CCA' for short). Accordingly she felt Tesco hadn't acted unfairly. Mrs C disagrees. So the complaint has been passed to me to decide.

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's no dispute that Mrs C's Tesco card was used here. So I don't think Tesco did anything wrong by charging her account accordingly.

chargeback

In certain circumstances, when a cardholder has a dispute regarding a transaction, as Mrs C does here, Tesco (as the card issuer) can attempt to go through a chargeback process. Chargeback is a voluntary process which is decided simply on the terms of the dispute within the rules of the card scheme (not managed by Tesco). I don't think Tesco could've challenged the payment on the basis Mrs C didn't properly authorise the transaction, given the conclusion on this issue that I've already set out.

The chargeback process is a straightforward dispute process between card issuers and merchants that is managed by the card scheme and is based solely on the rules of the card scheme. And this card scheme has certain time limits for such chargebacks to be initiated with suppliers by card issuers and these time limits start counting from either the date of the transaction or the delivery of the goods or services in contention. And card issuers can only raise such chargebacks once they're aware that there is a dispute. Here Mrs C received the swim spa in June 2023 but didn't raise the matter with Tesco until January 2024. The

relevant time limits here are 120 days from transaction or delivery whichever is later. Clearly Mrs C was well outside this time limit when she informed Tesco. So I don't think Tesco did anything wrong by not pursuing a chargeback here because it couldn't have been successful in any event. So I don't think Mrs C has lost out because of what Tesco did. And Tesco isn't responsible for the rules of the card scheme. So I don't think Tesco needs to do anything on this matter in regard to chargeback.

The CCA

The CCA introduced a regime of connected lender liability under Section 75 that afforded consumers ("debtors") a right of recourse against lenders ("creditors") that provide the finance for the acquisition of goods or services from a third-party merchant (the "supplier"). S75 (1) says:

"If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, she shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor."

It goes on to say in subsection 3:

"Subsection (1) does not apply to a claim—

(a) under a non-commercial agreement,

(b) so far as the claim relates to any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000".

Mrs C has made many arguments about this issue and says that either she didn't pay over £30,000 or that the swim spa's cost was less than the £30,000 amount due to a discount applied. However I don't agree. The invoice that Mrs C and the supplier signed clearly shows that the supplier "has attached a cash price" of "£33,995" to the item (the swim spa) in contention here. The discount doesn't make a difference here because the wording is clear *"any single item to which the supplier has attached a cash price"* and clearly the supplier has attached a cash price to this item. So I'm satisfied Tesco hasn't acted unfairly by pointing to this and saying a s75 claim cannot be successful against it for this reason in relation to her dispute about the swim spa.

Mrs C says that she actually bought the swim spa earlier. But she signed this invoice on 04 June 2023. If she bought it earlier at a different price I don't think she would have signed this document at the price it clearly sets out. Mrs C also says the supplier was *"crooked"* and has falsely portrayed matters to Mrs C's disadvantage. However neither Tesco nor this service are a court of law. S75 disputes can only be decided by Tesco and indeed this service on the evidence supplied. Here the invoice is very clear on the cost of the spa. And as there isn't any persuasive evidence to the contrary and as Mrs C did sign the invoice accordingly I'm not persuaded that Tesco has treated Mrs C unfairly here.

I do appreciate that this isn't the decision Mrs C wants to read. And that it leaves her in a position where she cannot have a successful claim against Tesco. Nevertheless it remains the case she can continue her dispute with the supplier directly in whatever manner she chooses if she chooses to. But Tesco hasn't treated her unfairly or done anything wrong. So it is my decision that this complaint should not succeed.

My final decision

For the reasons set out above, I do not uphold the complaint against Tesco Personal Finance Plc. It has nothing further to do in this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 30 August 2024.

Rod Glyn-Thomas
Ombudsman