

The complaint

Mr C complains Tesco Personal Finance Limited trading as Tesco Credit Card (Tesco) unfairly declined a claim for a disputed transaction to a car hire company.

What happened

Both parties are familiar with the facts of the case, so I'll summarise these here.

Mrs C booked a hire car for her trip to Spain. When she picked the car up on 11 May 2024 Mrs C says she was asked by the car hire company – who I'll call O – to pay a refundable security deposit of £316.08 (€357). She paid for this using Mr C's credit card with Tesco for which she is an additional card holder. At the same time Mrs C says she gave an electronic signature.

When this sum wasn't refunded, Mrs C chased O for a copy of the contract. When she received this, she found that the £316.08 had been charged for insurance and roadside assistance, which she didn't agree to or want. Mr C has since said they already have insurance so Mrs C wouldn't have bought this product.

Unhappy with this Mr C raised a dispute for this transaction with Tesco. However, given the evidence available Tesco didn't think the claim had a reasonable prospect of success, so it declined the claim. Mr C complained about this, but Tesco maintained its position.

Unhappy with this outcome Mr C referred his complaint to this service.

One of our investigators looked into the complaint and said that Tesco had declined the claim fairly because there wasn't a reasonable chance of the claim succeeding. He also set out that under Section 75 of the Consumer Credit Act 1974 (Section 75), there wasn't the necessary debtor-creditor-supplier ("DCS") agreement for a Section 75 claim to succeed. So, he concluded that Tesco hadn't acted unfairly in declining the claim. Mr C didn't accept the investigator's opinion and reiterated that Mrs C hadn't signed the documents being presented and that her signature had been fraudulently obtained. As no agreement could be reached the case 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.

I think it would be helpful for me to be clear here that I am only considering the actions of Tesco in this case, and I can't consider the actions of O.

The transaction was made using a credit card so that provides two possible routes to try to resolve the dispute – chargeback and Section 75. So, I've considered both of these and whether Tesco acted fairly when considering the disputed payment.

Chargeback

Chargeback isn't a legal right and isn't guaranteed to get a customer a refund. That said it's good practice for a bank to attempt a chargeback where the circumstances are appropriate and there is a reasonable prospect of success.

Strict rules apply to chargebacks, and these are set out by the card scheme operator rather than the bank. These rules include timeframes for chargebacks to be raised and details of what evidence is needed for the claim.

Tesco have said that on the evidence provided by Mr C, it doesn't think the claim would have succeeded had it raised a chargeback claim. This is because a contract bearing Mrs C's signature sets out the charges and shows that these were for insurance and roadside assistance. So, there's no written evidence that the amount Mrs C paid was a refundable cost. Given this, Tesco concluded that if it had raised the dispute with O, they would have been able to successfully defend a chargeback claim.

I understand what Mr C has said about Mrs C being misled and his suspicions that O obtained Mrs C's signature under false pretences, and I don't doubt the sincerity of this. However, my role here is to consider the actions of Tesco and I have no power to consider the actions of O.

Given there is only testimonial evidence that O misled Mrs C, the options for Tesco are limited here. I can see that Tesco gave consideration as to whether this transaction could be considered as fraud. However, because Mrs C was present for the transaction and had permission to use the credit account, Tesco concluded that this couldn't be considered as fraud as the transaction had been properly authorised. And I don't think this is unreasonable.

As this was the case Tesco considered a possible chargeback. Looking at the rules, the most relevant chargeback reason available would have been that the *"Goods or Services Were Either Not as Described or Defective"*. For a chargeback of this kind to be successful, the customer must be able to show, they contacted the merchant, or attempted to contact the merchant, to resolve the dispute. But that the merchant refused to resolve things, for example, by issuing a credit. The customer must also be able to show the goods and/or services did not conform to their description, or the merchant didn't honour the terms and conditions of the contract.

Looking at the evidence, Tesco couldn't be sure what was discussed when Mrs C completed the transaction. Verbal testimony can be disputed, and the only written evidence was a contract showing Mrs C had signed for roadside assistance and insurance. So, I don't think Tesco acted unreasonably when concluding that a chargeback would be unlikely to succeed. I say this because there is very little evidence to demonstrate that the service Mrs C received was different to that described to her, and the only copy of the contract provided shows the additional charge was for services provided rather than a refundable deposit. So, I don't think Tesco were unreasonable in concluding the evidence available wouldn't lead to a successful claim.

I appreciate the concerns Mr C has about O's practices but, in this instance, I don't think Tesco acted unreasonably in not raising a chargeback given the evidence available.

Section 75

Section 75 is a law which – where it applies – makes the provider of credit (in this case, Tesco) jointly liable for any misrepresentation or breach of contract by a supplier where the supplier's services are paid for (in whole or in part) with the credit being provided.

However, Section 75 doesn't apply to every kind of transaction. Mr C can only have a valid claim under Section 75 if the payment was made under a DCS agreement - as defined under Section 12 of the Consumer Credit Act 1974 (CCA). Here, Mr C is the debtor, Tesco is the creditor, and the supplier is the company O. But crucially Mr C didn't have a contract with O and wasn't travelling with Mrs C or party to the car hire agreement in any way. So, although Mr C is the ultimate debtor, as he didn't have a contract with O, this means there is no DCS agreement which means that Section 75 doesn't apply in this case.

I appreciate this won't be the outcome that Mr C hoped for. But I don't think it would be fair or reasonable of me to hold Tesco liable for what O might have done wrong in circumstances where the CCA doesn't apply. So, it follows that I don't think Tesco acted unfairly or unreasonably by not considering Mr C's claim under Section 75.

My final decision

My final decision is that I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 25 June 2025.

Charlotte Roberts
Ombudsman