

## **complaint**

Mrs L has complained that Tesco Personal Finance PLC (Tesco Bank) has not refunded one of the payments she made to a third party, for goods that she did not receive. She has also complained that she received poor customer service.

## **background**

Mrs L bought an item of furniture from a third party merchant. It cost £266.70 and she paid for it using her Tesco Bank credit card. However, when it arrived, it turned out that it needed to be modified to fit into the space it was to occupy. The merchant agreed to carry out the modification at a further cost to Mrs L of £122.77. She again made the payment using her Tesco Bank card.

Unfortunately, when the item arrived back, it emerged that the way the modification had been carried out meant there was a further problem. It was sent back again (at no further charge to Mrs L). However, the merchant ultimately decided it was experiencing difficulties making the further modification, so would instead provide a refund within three to five days.

When the refund did not materialise, Mrs L contacted Tesco Bank. It processed a successful chargeback for the second payment of £122.77. But it said it could not process a chargeback for the initial payment of £266.70, as it was outside the time limit that applies to chargebacks. It also said it could not refund Mrs L under section 75 of the Consumer Credit Act 1974 ('section 75').

As Mrs L was unhappy with this, she complained to this service. Our adjudicator recommended that the complaint should be upheld, as she considered that the first payment did fall within the chargeback rules. She also felt that Tesco Bank had provided poor customer service, and that it should pay Mrs L a further £70 compensation for this. It had already paid Mrs L £30.

## **my findings**

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

First, I have considered whether Tesco Bank should have processed a chargeback for the initial payment. Although there is no strict obligation on a finance provider to process a chargeback, it is considered to be good industry practice where there is a reasonable prospect of it being successful. I therefore need to consider: (i) whether it fell outside the timeframe allowed for chargebacks; and (ii) if not, whether there was a reasonable prospect of the chargeback being successful.

I have looked at the relevant rules regarding chargebacks, and agree with the adjudicator that the initial payment does not fall outside the timeframe. Under code 4855, the timeframe for goods not received is typically 120 days. However, there is a further consideration, which relates to 'interrupted services'. In this case, the 120 days is calculated from the date that Mrs L became aware that the service has ceased. I am satisfied that this was on 9 November 2013, when she was told that the merchant was having difficulties with the modifications, so would be providing a refund. Until this point, Mrs L had anticipated that the furniture would be delivered. This means that Mrs L would have had until 9 March 2014 (ie 120 days later) to qualify for a chargeback. In the January, Tesco Bank had processed a

(successful) chargeback for Mrs L's second payment. I see no reason why it did not also do so for the initial payment.

As I am satisfied that the chargeback would have been within time, I have also considered whether it would have had a reasonable prospect of success. I find that it would have. This is for a number of reasons. Given that the first chargeback was successful, and this was essentially a partial refund of the full purchase price, there is no reason I can see why the merchant's bank would turn down a request for the rest. Further, the merchant had accepted in email correspondence that a refund was due, and when it went out of business it advised Mrs L to request the chargeback.

I note that Tesco Bank also raised the issue that Mrs L may already have accepted a credit note from the merchant regarding the unsuitable item, which she used against the second payment. It has since agreed that it has no evidence that this was the case. I have seen no evidence of this either and, on this basis, am not persuaded that she did.

As I am satisfied that the chargeback for the initial payment should have been processed, I do not consider it necessary for me to look at whether or not section 75 also applies. Whether it does or not is irrelevant to this complaint, given that I am already satisfied Mrs L should be refunded, as a chargeback should have been processed.

Finally, I turn to the issue of the customer service Mrs L received. I can see that there were a significant number of problems, including that a chargeback was not processed when it should have been. The issues Mrs L encountered included repeated requests for information Mrs L had said very early on that she did not have, numerous calls for updates which were not responded to, and being given conflicting information as to the status of her claim. All of this caused lengthy and unnecessary delay and frustration for Mrs L. For this reason, I agree that Tesco Bank should pay a further £70 compensation, in addition to the £30 it has already paid.

### **my final decision**

For the reasons given above, it is my final decision to uphold this complaint. I require Tesco Personal Finance PLC to:

- a) refund £266.70 to Mrs L; and
- b) pay her a further £70 compensation for the inconvenience caused.

This is to be sent to her care of her representative.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs L to accept or reject my decision before 5 May 2015.

Elspeth Wood  
**ombudsman**