

complaint

Mr L complains that a debt collection agency is asking him to pay money owed to Tesco Personal Finance Plc trading as Tesco Bank. But he says he doesn't owe any money to Tesco Bank. And he complains about the way he's been treated.

To settle matters he'd like Tesco Bank to set his monthly payment to zero.

background

Mr L says he's been pressured and bullied by the debt collection agency to pay money he doesn't owe. In summary Mr L says:

- he doesn't owe any money – so he asked Tesco Bank to prove that he does;
- there's no date or signature on the credit card agreement Tesco Bank sent him as evidence of his debt;
- he asked for the debt collection agency to stop contacting him;
- he wasn't told his debt was being transferred to the debt collection agency;
- Tesco Bank wrote to him using a surname that wasn't his and he's worried Tesco Bank has confused his account with that of another customer;
- he's been asked to pay a £10 subject access fee to obtain documents but he can't afford this;
- Tesco Bank didn't send him a cheque for £50 to cover the cost of his medical report as it had agreed; and
- he told Tesco Bank about his physical and mental health conditions and why he couldn't afford to repay the debt.

Tesco Bank says it sent Mr L a copy of the credit card agreement he'd signed electronically. It also sent statements showing the amount he owed. Tesco Bank said it wouldn't ask the debt collection agent to stop contacting Mr L because he owed the money. But due to Mr L's concerns it arranged for a second debt collection agency to collect the debt instead.

It also asked Mr L to send details of his physical and mental health issues from a qualified medical professional so it could consider how this impacted on Mr L's ability to pay. Mr L said he couldn't afford to pay for a medical report so Tesco Bank agreed to pay £50 to cover the cost of this. Tesco Bank also asked the second debt collection agency to wait for 30 days before contacting Mr L - to give him time to obtain legal or financial advice and to obtain a medical report from his doctor.

Mr L says 30 days isn't long enough for him due to his physical and mental health issues. And he also says it's not practical for him to arrange a medical report in this time.

Our investigator was of the opinion that Mr L's complaint shouldn't be upheld. Based on the information he'd seen he couldn't say that Tesco Bank was asking Mr L to repay money he didn't owe.

He noted that because Mr L's complaint is about Tesco Bank he couldn't look at the way Mr L had been treated by the first debt collection agency. He thought Mr L would have known that the first debt collection agency was collecting the debt because he'd seen that Tesco Bank had written two letters to Mr L in January 2014. These explained that his account would be passed to a debt collection agency if Mr L didn't pay the amount owed. And he also noted that Mr L had been making payments of £1 per month to the first debt collection agency – so it showed he was aware of the first debt collection agency's involvement.

He thought it was fair and reasonable for Tesco Bank to put a 30 day hold on collection activities. And in his opinion Tesco Bank had sent the £50 cheque for the medical report to Mr L.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I'm sorry to disappoint Mr L but I broadly agree with what the investigator has said here.

Firstly I must explain that I can't look at the way Mr L has been treated by the first or second debt collection agency. This is because Mr L's complaint here is against Tesco Bank. But I can have looked at whether Tesco Bank has treated Mr L fairly and, if not, what it must do to put matters right.

It's not entirely clear if Mr L disputes that he owes the money to Tesco Bank at all or if he's saying that - because of his physical and mental problems - he's not able to pay the amount he owes. I can't make any finding about whether or not Mr L owes the money to Tesco Bank because that's a matter for the courts to decide – but I can look at whether Tesco Bank has treated Mr L fairly here. I'm of the opinion Tesco Bank has treated Mr L fairly so I'll explain why.

I've seen a copy of Mr L's credit agreement. Although the agreement isn't signed by Mr L Tesco Bank has explained this is because it was signed electronically. I've also seen copy statements showing the amount Mr L owed on his account and letters written by the bank detailing the amount he owed and warning him that further action may be taken if he didn't pay the amount owed. Mr L hasn't given other reasons to explain why he doesn't owe the amount due. So based on the information provided by the bank I can't say that Tesco Bank is acting unfairly in asking him to repay the money.

did Tesco Bank tell Mr L his debt was being passed to the first debt collection agency?

I accept I haven't seen anything to confirm this. But I can see that Tesco Bank wrote to Mr L in late 2013 and twice in January 2014 to explain that if he didn't pay the money due it was likely his account would be passed to an external debt collection agency. And I can also see he was aware of the debt collection agency's involvement because he'd made payments to it. So I'm of the opinion that Santander hasn't acted unfairly here.

has Tesco Bank taken Mr L's physical and mental health problems into account?

I can see that Mr L told Tesco Bank that his health conditions make him easily stressed, anxious and confused and he'd also told Tesco Bank he was unemployed and couldn't afford to repay the amount owed. In these circumstances I'd expect a lender to respond positively and sympathetically. But, this doesn't automatically mean that Tesco Bank must write off the debt or stop collecting the amount owed indefinitely.

Here Tesco Bank asked the second debt collection agency to delay collection of the debt for 30 days. I'm of the opinion that Tesco Bank did what it could to help because it asked Mr L to obtain a medical report so it could then look at how to help him once he'd obtained it. And when it became clear Mr L couldn't afford to pay for this, Tesco Bank agreed to pay £50 for the cost the medical report.

I also think the 30 day breathing space was fair. I say this because it gave Mr L time to seek help and obtain a medical report. It wasn't intended to put a hold on debt collection activities indefinitely. I realise Mr L saw the 30 day time period as a deadline and felt under pressure due to his health conditions. But based on the information I've seen I'm satisfied it wasn't a deadline. Instead, it was a limited period of time during which the second debt collection agency wouldn't contact Mr L to give him time to seek help and obtain a medical report.

I accept that 30 days isn't very long to obtain a medical report. However, Tesco Bank later agreed to put the account on hold for another 30 days. So overall I think Tesco Bank acted fairly.

did Tesco Bank send a cheque for £50 to Mr L for his medical report?

I'm of the opinion that it did. Tesco Bank explained in its letter dated 22 February 2018 that it would send a £50 cheque (for the costs of the medical report) separately. It then sent a letter on the following day with a cheque for £50. Mr L accepts he received a cheque for £50 but he says this relates to compensation for different issues. I'm afraid I don't agree. I say this because Tesco Bank's letter of 22 February 2018 is in response to Mr L's email of 6 February 2018. There's no mention of Tesco Bank giving additional compensation of £50 in this letter – the only reference is to £50 for the cost of a medical report.

communication

Mr L asked Tesco Bank to contact him only by post. It appears Tesco Bank has done this and has removed Mr L from its marketing database. He also asked not to be contacted by the first debt collection agency. I can see that due to Mr L's concerns Tesco Bank arranged for a different debt collection agency to take over collection of the debt. So I find Tesco Bank acted fairly here.

subject access fee

When Mr L said he couldn't afford to pay the subject access fee Tesco Bank waived this requirement. So I can't find that Tesco Bank has acted unfairly here.

writing to Mr L using the wrong surname

I can see that Tesco Bank did write to Mr L using the wrong surname but the letter was otherwise addressed correctly. Tesco Bank apologised and sent a £10 gift card by way of apology. So I find this is fair in the circumstances.

my final decision

My final decision is that I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 18 August 2018.

Michelle Hayward
ombudsman