

complaint

Mr C complains that Tesco Personal Finance plc, trading as Tesco Bank, won't refund to him the money that he paid for a fire-pit. His complaint is made against Tesco Bank under section 75 of the Consumer Credit Act 1974.

background

Mr C used his Tesco Bank credit card in August 2015 to pay £599 to an online marketplace for a fire-pit. The paint on the fire-pit peeled before he'd used it – so he complained to Tesco Bank under section 75. He wasn't satisfied with its response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. She said that Mr C had made his payment to an online marketplace – and not to the supplier – so there was no direct link between Tesco Bank and the supplier. And she said that that invalidated his claim under section 75. She also said that section 75 was a legal right so Tesco Bank isn't obliged to detail the requirements for a successful claim on its website.

Mr C has asked for his complaint to be considered by an ombudsman. He says that this type of purchase (where many smaller suppliers are hosted on very major supplier's web sites) is now commonplace and is accounting for a greater and greater percentage of online purchases - yet the cover normally accepted when the purchaser uses a credit card not only doesn't exist but the visibility of this major exception is hidden away (and is not even mentioned on Tesco Bank's website or as a major point in its terms and conditions). He believes that Tesco Bank - and other credit card suppliers - have a duty to inform their users that this major exception exists. And he says that it's not right, fair, moral or ethical to keep this lack of cover from the credit card purchasers and that the adjudicator's view of what's right and fair and reasonable is plainly wrong.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. One of those circumstances is that there must be a direct relationship between the debtor, the creditor and the supplier.

In this case, Mr C is the debtor because he has been provided with credit by Tesco Bank, it is the creditor and the supplier is the supplier of the fire pit. But Mr C's payment was made to the online marketplace – and not to the supplier – so there's no direct relationship between Tesco Bank and the supplier. And for that reason, Mr C's claim against Tesco Bank under section 75 can't succeed.

We offer an informal dispute resolution service and we have no regulatory or disciplinary role over Tesco Bank or other financial businesses. So I'm unable to require any of them to change the way that it conducts its business. I consider that Tesco Bank has correctly applied the provisions of section 75. There's no requirement for it to set out in detail the requirements of section 75 on its website or in its terms and conditions. And I'm unable to require it to do so.

I'm not persuaded that Tesco Bank has acted incorrectly in dealings with Mr C's complaint. So I find that it wouldn't be fair or reasonable for me to require it to refund to him the money that he paid for the fire-pit – or to take any other action in response to his complaint.

my final decision

For these reasons, my 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 20 October 2017.

Jarrold Hastings
ombudsman