

complaint

Mr S complains that Tesco Personal Finance plc, trading as Tesco Bank, won't refund to him the money that he paid for some repairs to his son's car. His complaint is made against Tesco Bank under section 75 of the Consumer Credit Act 1974.

background

Mr S used his Tesco Bank credit card in August 2015 to pay £1,742.50 to a garage for repairs to his son's car. He says that the garage didn't do what had been agreed and that the car broke down again. He complained to Tesco Bank under section 75 but wasn't satisfied with its response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. She concluded that the debtor-creditor-supplier link required for a claim under section 75 had been broken. She said that Mr S had paid for the repair but hadn't received the goods and services – which were provided to his son. And it wasn't Mr S's signature on the invoice. She also said that a chargeback wouldn't have been successful because there wasn't enough evidence to show what repairs were agreed before the work was carried out.

Mr S has asked for his complaint to be considered by an ombudsman. He says, in summary, that:

- neither his nor his son's name is on the repair invoice;
- both he and his son were the garage's customers as they both gave instructions to the bank - jointly and individually – and the garage accepted the instructions;
- his son signed the invoice under duress as the garage refused to release the car until he had signed; and
- the relationship with the garage had deteriorated to the point where he and his son felt threatened so didn't request a chargeback to prevent any possibility of retaliation by the garage owner.

He also refers to a similar situation about repairs to his wife's jewellery.

my findings

I've considered all the available evidence and arguments to decide what is 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 the debtor is Mr S because he has used his credit card to pay for the repairs, the creditor is Tesco Bank because it has provided credit to Mr S and the supplier is the garage which repaired Mr S's son's car. There is no dispute that Mr S paid for repairs to his son's car. But in deciding whether Mr S has a valid claim under section 75, I need to consider whether the garage was providing the services to Mr S or to his son.

The car belongs to Mr S's son and it's his son who received the benefit of the repairs. Mr S's son signed the repair invoice – albeit that Mr S says that that was under duress. And none of Mr S's name, signature nor any other details about him appear on either of the two invoices from the garage. So I'm not persuaded that the services were provided to Mr S - I find it to

be more likely that the services were provided to his son. I consider that there is no debtor-creditor-supplier-relationship in these circumstances so Mr S's claim under section 75 can't be successful.

Whether or not Mr S would have a claim under section 75 for repairs to his wife's jewellery would depend on the facts and circumstances relating to that potential claim. Section 75 doesn't give him the right to make a claim against his credit card provider in all circumstances.

Mr S told Tesco Bank that his: "*claim is not a request for chargeback against the retailer*"; and the period in which a chargeback claim could've made has now passed. But I find that a chargeback claim was unlikely to be successful in these circumstances as the garage had done work on the car.

my final decision

For these reasons, my decision is that I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 6 June 2016.

Jarrold Hastings
ombudsman