

The complaint

Mr S has complained Tesco Personal Finance PLC, trading as Tesco Bank, won't refund credit card transactions he didn't make.

What happened

In November 2023 Mr S was overseas with work colleagues on a holiday paid for by work. They all went out for drinks in the evening and then Mr S went back to the hotel.

A few days later his wife, Mrs S, noticed seven transactions on their credit card she didn't recognise. She asked Mr S what these were, and Mr S said he didn't know either. He contacted Tesco and reported these seven transactions as fraudulent.

After further investigation, Tesco told Mr S they'd be re-debiting £1,704.16 as they believed the genuine card and PIN had been used to make these transactions over a two-hour period. Mr S believed he was back at his hotel at the time and his card remained in his possession.

Mr S brought his complaint to the ombudsman service.

Our investigator felt the evidence supported Mr S having made these transactions. He wasn't going to ask Tesco to refund Mr S.

Mr S asked an ombudsman to consider his complaint.

I completed a provisional decision on 19 November. I noted that Tesco had provided now authentication data to show authorisation for the disputed transactions. In their absence I was asking Tesco to refund Mr S. I made it clear that if this data was to be provided, I may well review my provisional decision.

Mr S accepted this outcome which he believed accepted his arguments.

Tesco did not agree with this outcome and provided authentication data showing that Mr S's genuine card and PIN were used to make the transactions.

I now have all I need to make my final decision.

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.

Having done so, I've reached a different outcome to my provisional decision. I'll explain why.

I've already confirmed to Mr S that I have changed my decision and explained why. I note his sincere protestations.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light

of the evidence.

It's worth stating that I can choose which weight to place on the different types of evidence I review, including technical evidence, provided by financial institutions along with complainants' persuasive testimony.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mr S's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence Tesco provided as well as what Mr S has told us.

I believe Mr S must have made the disputed debit card transactions. I say this because Tesco has shown that the transactions were authenticated by chip and PIN. This involved the correct PIN and Mr S's genuine card.

I have no option but to confirm there is sufficient evidence to show these transactions were authorised.

So, I have no explanation for how Mr S's genuine card could have been used. Mr S has confirmed he was back in his hotel at the time of the transactions which took place between 02:28 and 04:41. It would be highly unusual, if not well-nigh impossible for an unknown third party to obtain Mr S's card and PIN, and then return the card to Mr S's hotel room.

I stated in my provisional decision that our service has considered other complaints involving the same strip club (although the merchant likes to call themselves something slightly loftier). It's clear to me that they sail close to the wind and may well con their visitors into being overcharged, relying on the fact that they'll be too embarrassed to complain later and admit they paid little or no attention to the card transaction they were authorising.

I'm suspicious of seven transactions authorised within a short timescale. None of them are particularly high value individually, but together they amount to a significant sum. If Mr S was in the club in question and buying services, I also note that all seven transactions are for different sums which I also find rather unusual – based on the likelihood if these were genuine that Mr S was paying for the same services repeatedly.

However, it's true that if these were properly authorised by Mr S as the evidence shows – even if they are transactions for inflated sums – then the regulations suggest he should pay for these.

I now believe there is sufficient evidence to show Mr S authorised these disputed transactions.

I am aware that Mr S will find this decision difficult to stomach and I have noted what he's said to our service.

My final decision

For the reasons given, my final decision is not to uphold Mr S's complaint against Tesco Personal Finance PLC, trading as Tesco Bank.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 January 2025.

Sandra Quinn
Ombudsman