

The complaint

Mrs H has complained Tesco Personal Finance plc, trading as Tesco Bank, did nothing to stop the use of her credit card when being used online without her authority.

What happened

Between October and December 2023 Mrs H's Tesco credit card details were used to make £912.31 of purchases to support her daughter's use of a game on Google Play. Mrs H was shocked to discover this as she hadn't provided her daughter with her card details. She didn't understand how Tesco allowed the escalating nature of the transactions to proceed.

Tesco told Mrs H they couldn't claim the money back as the credit card had been used to secure services. Mrs H felt this ignored the fact she'd not allowed her credit card details to be used in this way. She brought her complaint to the ombudsman service.

Our investigator told Tesco they should refund Mrs H as she'd not agreed to her credit card details to being used in this way, either by authorising the transactions herself or allowing her daughter to act as her agent.

Tesco wouldn't agree to this. They raised previous transactions to Google Play which hadn't been disputed.

Mrs H's complaint has been referred to an ombudsman.

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 the same outcome as our investigator. I'll explain why.

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.

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 Mrs H's complaint are The Consumer Credit Act 1974. This specifies that the credit cardholder cannot be held liable for any losses arising from the use of the credit facility by another person, although another person can be using the card as an agent of the cardholder.

Mrs H's young daughter downloaded a game from Google Play. This was done with Mrs H's consent using her account. Mrs H is aware that this is a game for older children but her daughter, like many her age, would be playing with this game online.

However – and I have considered this carefully – there’s no evidence to suggest Mrs H allowed her daughter to download various add-ons to the game and purchase various in-app extras. Google always require card details to be set up to allow any initial download, and in any case Mrs H had previously used Google Play herself and her credit card details would be linked to that account originally. This doesn’t suggest to me that Mrs H was providing any consent to her daughter to use her card details to make further purchases related to her use of the game. So, I don’t believe her daughter was acting as Mrs H’s agent.

It’s clear from what Mrs H has said that a gmail account was set up between her daughter and Google so Mrs H would never have been aware of the many transactions that were being made between October and December 2023.

Tesco has stated that as the service was provided, they had no basis to claim the money back. They have also implied that Mrs H must have been negligent with her card details. I don’t believe Mrs H can be held responsible for Google Play’s set up and their storage – and then use – of her card details. Tesco’s view seems to ignore the regulatory fact that there was no consent for the transactions and therefore they are obliged to refund Mrs H. I’d have expected them to have taken this action earlier.

Putting things right

As I’m satisfied Mrs H didn’t make these transactions or allow them to be made, Tesco will need to refund £912.31. I can see during the period of the disputed transactions, Mrs H paid her credit card bill off in full to avoid paying any interest. To compensate her, Tesco will also need to add 8% simple interest a year to the disputed amounts debited from her account until the date of settlement.

My final decision

For the reasons given, my final decision is to instruct Tesco Personal Finance plc, trading as Tesco Bank, to:

- Refund £912.31 to Mrs H; and
- Add 8% simple interest to the disputed amounts from the dates of debit to the date of settlement.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs H to accept or reject my decision before 19 December 2024.

Sandra Quinn
Ombudsman