

The complaint

Mr M complains that Tesco Personal Finance PLC, trading as Tesco Bank, declined his claim for compensation for suffering food poisoning while on holiday.

What happened

In January 2023 Mr M paid for a package holiday using his Tesco Bank credit card. While on holiday he had food poisoning, which was diagnosed by a local doctor as gastroenteritis. This caused him to miss out on four days of his holiday, at a *pro rata* cost of approximately £200 a day. Mr M attributes this illness to the hotel's food, since he did not eat elsewhere.

Mr M recovered his medical expenses through his travel insurance, but he asked Tesco Bank to pay him £800 for his four lost days. He supplied a photo of some undercooked chicken to support his claim. He also asked for £100 for failing to tell him about the bank's complaints procedure (the bank had initially referred him to the Citizens Advice Bureau (CAB)).

The bank apologised for the latter issue, and paid Mr M £30. But it did not uphold his claim. It told him it could not raise a chargeback, nor conclude that the hotel had breached its contract with him (for which the bank would have been jointly liable under section 75 of the Consumer Credit Act 1974) because there was not enough evidence that the hotel had been responsible for Mr M's illness. Being dissatisfied with that outcome, Mr M brought this complaint to our service. He provided an online review which another guest at the hotel had left from a customer who had also been taken ill at the same hotel.

Our investigator did not uphold this complaint. She was not persuaded that the hotel's food was necessarily the cause of Mr M's illness (or the illness of the author of the review he had provided). She thought there could have been another cause, and noted that there was evidence that there had been an outbreak of the illness in a local town, rather than in the hotel itself. She concluded that the bank had dealt with his section 75 claim and his chargeback claim reasonably. She thought that £30 was fair compensation for misadvising him about how to complain.

Mr M disagreed with that assessment. He asked what more he could possibly have done to prove his case. He asked for an ombudsman's 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 do not uphold it, for essentially the same reasons as my colleague.

I can see clearly that the chicken in Mr M's photograph is undercooked, and so it could easily have caused him to become unwell (since its condition was not apparent until he had begun eating it). However, I think that Tesco Bank was entitled to take the view that this was not enough to prove that this was the cause of his illness. That is because there is evidence

that sewage was being discharged into the sea at the resort, which means that it could have made swimmers ill, and those who were guests at the hotel could have infected Mr M even if he did not go swimming himself. And the hotel claimed that there had been an outbreak of gastroenteritis in town, and I have no reason to doubt that. Locals visiting the hotel, or hotel guests who ventured into town, could also have brought the virus back with them. So I do not think it would be fair of me to criticise the bank for taking the view, which it was open to them to take, that the hotel may not have been responsible for Mr M's illness.

(There is also nothing in the photo to prove that it was taken in the hotel, but the bank has not taken that point, and I have no reason to doubt Mr M, and so on the balance of probabilities I accept that it is a photo of the hotel's food.)

For these reasons, I do not think that the bank had to compensate Mr M for his lost four days.

That is not to say that there was not a breach of contract by the hotel. Serving him undercooked chicken, whether it made him ill or not, is still a breach. But without proof that it made him ill, I think that the impact of that breach would have been the inconvenience of sending it back. I don't think that (by itself) reaches the level where financial compensation should be awarded.

Mr M has also provided a photo of a steak, but I'm afraid I can't see anything wrong with it.

Finally, while Mr M was inconvenienced by the bank wrongly referring him to the CAB, that did not delay his complaint for long, nor did it affect the outcome. I think that an apology and the payment of £30 for that matter is fair.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 September 2023.

Richard Wood
Ombudsman