

The complaint

Mrs G complains that Tesco Personal Finance PLC trading as Tesco Bank rejected a claim she made under Section 75 of the Consumer Credit Act 1974

What happened

In 2017, Mrs G purchased a battery to connect to her existing solar panel system, which she paid for in part using her Tesco credit card. She alleges that the battery was misrepresented to her as self-funding, in that the additional savings it would generate would cover the cost of the system within ten years. And she made a claim to this effect to Tesco in 2022, providing a report which said the battery was only likely to save her about £60 per year.

Tesco rejected the claim. It said that the purchase included a 20-year monitoring plan covering her existing solar panel system. This allowed the supplier of the battery to monitor the performance of her existing solar panel system and identify any faults, which the supplier would rectify free of charge.

Tesco said that based on the current cost of the monitoring plan this likely made up the majority of what she paid. So, the savings, even if they were only £60 per year initially, were likely to cover the cost of the battery within 10 years. It also noted that Mrs G had never contacted the supplier to express any dissatisfaction with her purchase.

Unhappy with this, Mrs G made a complaint, which Tesco rejected. She then asked the Financial Ombudsman Service to look into what had happened. Our investigator recommended the complaint be upheld, as she thought there had been a misrepresentation. Tesco did not agree, so I've been asked to make a decision.

I issued a provisional decision explaining that I was not planning to uphold this complaint. Tesco responded to say they had nothing further to add. Mrs G did not respond by the deadline given. As such this final decision is in line with my provisional decision. I don't uphold this complaint.

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.

Under Section 75 Tesco can be held liable for any misrepresentation or breach of contract by the supplier when selling the battery and monitoring plan to Mrs G, because she used her credit card when purchasing it.

Mrs G alleges she was told the additional savings on her electricity bills provided by the battery would cover what she paid for it within 10 years.

In response to what Tesco said about the monitoring plan, Mrs G says she did not take this out as she already had monitoring in place from when she purchased her existing solar panel system.

What I have to decide is whether the alleged misrepresentation took place. To do that I have to look at the available evidence. That includes Mrs G's recollection of the sale, the sales documents from the time, and any surrounding circumstances, such as how long it has taken Mrs G to raise the issue.

Where there is something that supports what a consumer has said, that will tend to make it easier to accept their recollection as being reliable. In this case there is nothing to support Mrs G's recollection. That Mrs G took almost five years to raise the issue tends to undermine what she has said. In that time the supplier says she did not contact it to express any dissatisfaction with the purchase, which you might expect a customer to do if they are unhappy.

But the biggest factor here is that Mrs G says she did not take out the monitoring plan. The sales documents clearly and prominently suggest that she did, in that written on the middle of the customer purchase agreement are the words, "Enphase Battery Plus 20yrs Monitoring". And the fact that Tesco has provided evidence from the supplier (which Tesco sent to Mrs G) that it is in fact monitoring the performance of her existing solar panel system.

This makes it very hard for me to uphold this complaint, as I would be doing so largely on the basis of Mrs G's recollection. But, given the evidence available to me, it does not appear that her recollection can be relied upon as being an accurate reflection of what happened during the sale.

As such, I am not persuaded that the alleged misrepresentation took place. So, I don't think that Tesco acted unfairly or unreasonably when it declined Mrs G's claim and complaint.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 16 January 2024.

Phillip Lai-Fang
Ombudsman