

The complaint

Mr R complains about the way that Moneybarn No. 1 Limited has dealt with a conditional sale agreement under which a car was supplied to him.

What happened

A used car was supplied to Mr R under a conditional sale agreement with Moneybarn that he signed in February 2014. He agreed to make a payment of £569 and then 47 monthly payments of £232.75 for the car to be supplied to him. Mr R didn't make all of the required payments to Moneybarn so it issued a termination notice in July 2014 and instructed a third party to collect the car from Mr R.

Mr R contacted Moneybarn in August 2014 and agreed to clear the arrears on his account so the termination notice was withdrawn but Moneybarn charged £270 to his account for the collection that had been arranged. There were further payment issues so Moneybarn terminated the agreement in April 2015, the car was collected from Mr R and sold at auction. The sale proceeds of £3,750 were applied to Mr R's account, leaving an outstanding amount that he owed it of £5,803.30. Moneybarn obtained a county court judgment against Mr R for that amount.

Moneybarn sent Mr R a letter in May 2019 in which it said that it had been working with the Financial Conduct Authority to look at how clear its communications about the different options available to customers to end their finance agreements were. It said that it could have done more to ensure that Mr R fully understood the options that were available to him - it apologised for that and said that it had reduced his outstanding balance from £5,803.30 to £2,694.38.

Mr R complained to Moneybarn about the way that it had dealt with his agreement but he wasn't satisfied with its response so complained to this service. Our investigator recommended that his complaint should be upheld. He said that Moneybarn was within its rights to start the recovery process in July 2014 and, as it had been charged by the third party for the collection, it was fair that that charge was passed to Mr R. He believed that it was fair and reasonable for Moneybarn to repossess the car in April 2015 and that it was more likely than not that the sale proceeds had been applied to Mr R's account correctly. He said that Moneybarn hadn't updated the county court judgment when the outstanding amount was reduced to £2,694.38 and he recommended that Moneybarn should make a request to the court to change the outstanding amount on the judgment.

Mr R says that he made payments to Moneybarn, it shouldn't have terminated his account or recorded a county court judgment against him and that the car would've sold for more than £3,750. Moneybarn has asked for this complaint to be considered by an ombudsman. It says that the balance was correct at the time that the judgment was registered so it won't be amending it.

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 agree with the conclusions reached by the investigator for these reasons:

- our investigator has described in detail the payments that Mr R made to Moneybarn and it's clear from his account statement that he hadn't made all of the payments that were due under the conditional sale agreement;
- I'm not persuaded that there's enough evidence to show that Moneybarn acted incorrectly when it issued a termination notice to Mr R in July 2014 (which was then withdrawn when Mr R cleared the arrears on his account) or when it terminated his agreement and collected the car from him in April 2015;
- Moneybarn had been charged by the third party for the collection that had been arranged in August 2014 so I don't consider that it was unfair or unreasonable for it to apply that charge to Mr R's account;
- the car was sold at auction and the statement of account shows that the disposal proceeds were £3,750 – Mr R says that the car would've sold for more than that but he's provided no other evidence to show that the sale proceeds were more than £3,750 and I'm not persuaded that there's enough evidence to show that Moneybarn has incorrectly applied the disposal proceeds to his account;
- Moneybarn obtained a county court judgment against Mr R for the outstanding balance of his account – which at that time was £5,803.30 – but it has since reduced the outstanding balance of Mr R's account to £2,694.38 as a result of the remediation program that it agreed with the Financial Conduct Authority;
- although the amount of the judgment was correct at the time that it was obtained, I consider that it's potentially misleading to leave it unchanged;
- I'm unable to require the court to change the judgment but I consider that it would be fair and reasonable for Moneybarn to make an application to the court for it to reduce the amount of the judgment to £2,694.38; and
- other than making that application, I find that it wouldn't be fair or reasonable in these circumstances for me to require Moneybarn to take any action in response to Mr R's complaint.

Putting things right

I find that it would be fair and reasonable in these circumstances for Moneybarn to make an application to the court for it to reduce the amount of the judgment that it obtained against Mr R to £2,694.38.

My final decision

My decision is that I uphold Mr R's complaint in part and I order Moneybarn No. 1 Limited to make an application to the court for it to reduce the amount of the judgment that it obtained against Mr R to £2,694.38.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 October 2021.

Jarrold Hastings

Ombudsman