

The complaint

Mr Z says that Moneybarn No. 1 Limited (“Moneybarn”) should have allowed him to voluntarily terminate his finance agreement.

What happened

The details of this complaint are well known to both parties, so I won’t repeat them again here. Instead I’ll focus on giving my reasons for my 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.

I know it will disappoint Mr Z, but I agree with the investigator’s opinion. Please let me explain why.

Where the information I’ve got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I’ve read and considered the whole file, but I’ll concentrate my comments on what I think is relevant. If I don’t comment on any specific point it’s not because I’ve failed to take it on board and think about it but because I don’t think I need to comment on it in order to reach what I think is the right outcome.

Mr Z acquired his car under a conditional sale agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The terms of the credit agreement allowed Moneybarn to terminate it if Mr Z didn’t make payments towards his agreement on time.

In January 2020 when a default letter was sent Mr Z was over £3,000 in arrears.

We’d expect a business to be positive and sympathetic towards a consumer who was in financial difficulties, as Mr Z clearly was, and I think Moneybarn were. They tried to help Mr Z by arranging repayment plans, but Mr Z didn’t keep to those plans.

Moneybarn also explained Mr Z’s options to him on several occasions throughout 2018, 2019 and 2020. They explained that one of those options was to voluntarily terminate his agreement with them.

By the time the default notice was sent in January 2020, Mr Z had paid more than half of the amount due on the agreement and he would not therefore have had to pay anymore if he’d voluntarily terminated, although he would have been expected to return the car. But the options letters sent to Mr Z explained that if he didn’t engage with the business they would send a default notice, terminate his agreement, and would seek to collect the car and the

money owed. In those circumstances it is clear from the letters that voluntary termination would no longer be an option.

Moneybarn sent the notice of default to Mr Z on 16 January 2020. That notice explained that Mr Z had until 5 February 2020 to make payment of the arrears and if payment wasn't made they would terminate the finance agreement, enforce their right to take the car back and register a default. Moneybarn subsequently extended that deadline until 12 February 2020.

I've not seen evidence that Mr Z asked to voluntarily terminate his agreement. During the call he had with Moneybarn, before the agreement was terminated, he didn't discuss voluntary termination or refer to any previous request he may have made to voluntarily terminate. During that call it's clear that he doesn't want to return the car and is simply seeking to reach an agreement with Moneybarn to pay off the arrears over the next couple of weeks. I don't think that suggests he was prepared to voluntarily terminate at that point.

Moneybarn didn't have to accept the offer Mr Z made to clear the arrears within the next two weeks. They'd already shown significant forbearance and the consequences of not clearing the arrears by 12 February 2020 had been made clear to Mr Z.

So, I don't think Moneybarn were wrong to terminate the agreement as they did on 13 February 2020.

I'm not therefore asking Moneybarn to take any further action.

My final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 16 February 2022.

Phillip McMahon
Ombudsman