

## **The complaint**

Mr K complains that RateSetter, for which Metro Bank PLC is the owning company, is holding him liable for a loan in his name which he says he did not consent to.

For simplicity, I will refer to Metro Bank PLC as RateSetter in my decision.

## **What happened**

The circumstances of this complaint are well known to both parties, so I will not repeat them all again here in detail. But I will provide an overview of events below.

In June 2017, a RateSetter loan in the sum of £3,800 was applied for in Mr K's name. This loan was auto approved on the same day and the funds of which were credited to Mr K's current account the following day. Mr K disputes this loan – his submissions can be summarised as follows:

- Mr K's former friend, whom I will refer to as M in in this decision, told him he was having issues with his bank account.
- Consequently, M asked Mr K if he could transfer £3,800 to his current account: £3,300 of which to be transferred to M's cousin; and the remaining £500 to be kept by Mr K as he had been helping M out recently.
- Mr K agreed to this and £3,800 was credited to his current account, which he says he believed came from M at the time.
- Mr K then made payment transfers (amounting to £3,300) to an account he says he believed to be held by M's cousin; and kept the remaining £500 as agreed.
- In July 2017, Mr K noticed a direct debit that was collected from his current account, which promoted him to contact his bank and then RateSetter. At which point he says he discovered the direct debit was payment towards a loan in his name in the sum of £3,800.

Mr K's position is that M took out the loan in his name without his consent and knowledge.

Mr K explained the above to RateSetter. It investigated the matter and decided to hold Mr K liable for the loan. Mr K raised a complaint about this which he also referred to our Service.

One of our investigators considered the complaint and upheld it. Based on the evidence before her, she thought, on balance, that Mr K was not aware of the loan. Therefore, she directed that RateSetter should write off the loan less £500 and update credit reference agencies accordingly; Mr K should repay RateSetter the £500 he had use of; and that he should not be held liable under the terms and conditions of the loan.

Mr K accepted the investigator's findings, but RateSetter did not. As an agreement could not be reached, the complaint has been passed to me to make a decision.

## **What I have 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 reasons I set out below.

But first, I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

Mr K has not been able to provide any evidence of his agreement with M. Mr K says this is because the agreement was reached over a well-known social media platform which deletes 'chats' after 24 hours. Whilst I acknowledge the difficulty this causes, I have taken the following into account:

- Mr K has been consistent in his testimony to RateSetter and this Service.
- Mr K's version of events in terms of what he says happened is plausible.
- Mr K contacted his bank and RateSetter as soon as he saw the direct debit collected from his account to pay towards the loan.
- Based on RateSetter's submissions, it appears as if it does not dispute the proposition that the loan was not taken out by Mr K. Instead, RateSetter deems Mr K liable for the loan because of the agreement he reached with M – which RateSetter argues is a civil matter. I should highlight that Mr K cannot be bound by the terms and conditions of the loan agreement if he did not consent to the loan being taken out in his name.
- Notwithstanding the above point, the onus is on RateSetter to demonstrate that Mr K did not consent to the loan – something which, based on the evidence before me, I am not satisfied it has done.

Taking all the above points together, I am satisfied that Mr K did not consent to the loan being taken out in his name and therefore he cannot be bound by the underlying loan agreement. Ultimately, I have not seen any satisfactory persuasive evidence disproving Mr K's version of events.

I will now turn to considering whether Mr K had use of the loan funds.

Mr K has accepted that out of the £3,800, he had use of £500. So, I think it would only be fair that he pays this amount back to RateSetter. In relation to the remaining £3,300, I am not satisfied that Mr K had use of this amount.

I say this because I have seen evidence from Mr K's current account provider which confirms that Mr K transferred £3,300 in total to an account held in the same surname as M's, but with a different initial. So, this lends credence to Mr K's testimony that M asked him to transfer £3,300 to his cousin's account.

To be clear, out of the £3,800 loan funds, I am satisfied that Mr K did not have use of £3,300, but he did in sum of £500 – something which he accepts. Therefore, I think it is only

fair that he repays £500 to RateSetter; and that RateSetter does not pursue Mr K for the remaining £3,300.

### **My final decision**

For the reasons set out above, my final decision is that I uphold this complaint. I therefore direct that Metro Bank PLC:

- Close the loan agreement opened using Mr K's personal details.
  - *As Mr K did not enter into the loan agreement, he can neither be held liable under the terms and conditions of it, nor pursued for the £3,300 (see above).*
- Remove any information about the loan agreement from the information held with credit reference agencies.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 30 September 2022.

Tony Massiah  
**Ombudsman**