

The complaint

Ms L complains that NewDay Ltd trading as Aqua treated her unfairly when her credit card was in arrears.

What happened

Ms L has told us she contacted Aqua in November 2021 after losing her job. Ms L has explained she was told Aqua would call her back but no contact was made. Ms L tried to speak with Aqua again the following month but has explained another promised call back wasn't received. Ms L's payments in December and January 2022 were missed.

Aqua sent arrears letters to Ms L and in January 2022 it sent a default notice asking her to clear the arrears. The letter explained Aqua would terminate the credit card if no payment was received.

Aqua took the decision to terminate Ms L's credit card in February 2022 and passed the debt to a third party business (M) to collect. Ms L's told us she's since been contacted by M for payment and went on to raise a complaint.

Aqua responded to Ms L's complaint and agreed to refund three late fees as a gesture of goodwill. But Aqua didn't agree it had acted unfairly by terminating the credit card or referring Ms L's account to M.

An investigator at this service looked at Ms L's complaint. In its file submission, Aqua sent a copy of its contact log but no calls from Ms L were shown. The investigator thought Aqua had dealt with Ms L's complaint fairly and didn't ask it to take further action. Ms L asked to appeal and said Aqua had agreed a payment holiday but not recorded the call or followed through. As Ms L asked to appeal, her complaint has been passed to me to make a 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.

Ms L's told us that she thought a payment holiday had been agreed following calls with Aqua. But Aqua says there's no record of Ms L's calls with it or any agreement to a payment holiday arrangement. Where the parties of a complaint dispute what happened or what was said, we base our decision on the balance of probability. That is, what I consider most likely to have happened based on all the available information and evidence.

Aqua's supplied its contact log but it doesn't show any calls from Ms L during the period in question. Ms L's told us she thought a payment holiday had been agreed, but there's no record of an agreement of that nature with Aqua. I can see Aqua continued to send Ms L arrears letters asking for payment which would normally be suspended during a payment holiday.

I'm sorry to disappoint Ms L but, on balance I haven't been persuaded that Aqua agreed a payment holiday.

Aqua went on to send Ms L arrears letters and a default notice in January 2022. Ms L's confirmed she received correspondence from Aqua around this time but didn't follow it up due to other pressures. But I've read the default notice and I'm satisfied it clearly explains that Aqua would terminate the credit card if the arrears weren't cleared. As the arrears remained outstanding beyond the due date, Ms M's account was closed and passed to M to collect.

I'm very sorry to disappoint Ms L as I understand she was going through a particularly difficult time. But as I haven't found that Aqua acted unfairly in the way it handled her credit card I haven't been persuaded to uphold her complaint. As I'm satisfied Aqua dealt with Ms L's complaint fairly I'm not telling it to do anything else.

My final decision

My decision is that I don't uphold Ms L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 9 February 2023.

Marco Manente
Ombudsman