

The complaint

Mrs B complains that Metro Bank PLC trading as RateSetter ("RateSetter") is holding her liable for the debt on a loan taken out in her name without her knowledge and consent.

What happened

The background to this complaint is well known to both parties, so I won't repeat everything here. In brief summary, in August 2022 a loan was taken out with RateSetter in Mrs B's name for £5,000. Mrs B subsequently got in touch with RateSetter to let it know she hadn't applied for the loan. RateSetter investigated things and ultimately couldn't reach agreement with Mrs B, so she referred her complaint about RateSetter to us. Our Investigator couldn't resolve things informally, so the case has been passed to me for 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.

Having done so, I've decided to uphold this complaint for materially the same reasons as our Investigator.

In this case, my first consideration is: did Mrs B enter into this loan agreement, or was it done without her knowledge and consent as she alleges?

Having considered this carefully, I think it's most likely the loan was taken out in Mrs B's name without her knowledge and consent, and she therefore did not enter into the loan agreement. I say this because I'm satisfied Mrs B has plausibly and persuasively explained that she'd previously given her details to her son so he could note her as a guarantor for some lending in *his* name, but that her son applied for this loan with RateSetter in *her* name completely without her knowledge or consent. I believe Mrs B. The information suggests to me the email address and mobile number used in the loan application weren't Mrs B's. I note Mrs B appears to have reported the matter to the police and Action Fraud. And nothing RateSetter has said or provided persuades me Mrs B otherwise had knowledge of the loan application in her name or consented to it at the time.

Since I'm satisfied Mrs B most likely didn't apply for or agree to this loan, I don't think it would be fair for RateSetter to hold her to the terms of the loan agreement she never saw or agreed to. So, RateSetter shouldn't hold Mrs B liable for interest and charges, neither should there be a record of the loan on Mrs B's credit file – so if there currently is, this should be removed.

However, I'm also satisfied in this case that it wouldn't be fair for RateSetter to pursue Mrs B for the outstanding loan funds. I say this because Mrs B appears to have had no benefit from these at all. They landed in her bank account on 8 August 2022 and she moved them onto her son that same day. Mrs B has explained that she queried the funds with her son, but he tricked her into thinking he'd applied for too many loans, that the funds being sent directly to her was a quirk of guarantor loans, and that if she returned the funds to him – as, he said,

this RateSetter loan had been applied for by mistake – he'd return them to the lender to close the loan. Again, I believe Mrs B. So when RateSetter says it would have expected Mrs B to raise concerns with it right away when she received the funds into her account, I don't think this is fair. I can't see that Mrs B had any reason not to trust her son at that stage. She appears to have gotten in touch with RateSetter in December 2022 as soon as it was clear to her what had in fact happened. And like our Investigator, I have found Mrs B's testimony to be plausible and persuasive and I think she's acted in good faith and is a victim of fraud.

I'm satisfied this means RateSetter's argument that the funds are a civil dispute between Mrs B and her son isn't fair here. Instead, I'm satisfied Mrs B didn't have anything to do with this loan. Her son tricked RateSetter into granting it. And when the money hit Mrs B's account she was tricked into moving it onto her son in circumstances where I don't think Mrs B acted unreasonably given the individual circumstances of this case. I've also thought about the fact Mrs B appears to have previously been content to act as guarantor for her son for some lending. But the evidence indicates to me this wasn't for this loan – here it seems most likely that Mrs B was tricked by her son into thinking this particular loan was a mistake. So, whilst I've considered everything RateSetter has said, I'm satisfied here it wouldn't be fair for RateSetter to pursue Mrs B for the outstanding funds – I'm satisfied RateSetter should write off the loan.

My final decision

For the reasons explained, I uphold this complaint and I direct Metro Bank PLC trading as RateSetter to:

- write off the loan and not pursue Mrs B for any repayment of the loan; and
- amend Mrs B's credit file removing any information about the loan and searches.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 29 November 2023.

Neil Bridge
Ombudsman