

The complaint

Miss S has complained about Retail Money Market Ltd (trading as RateSetter) holding her liable for a debt which she says was the result of ID theft.

What happened

This complaint surrounds an unsecured personal loan of £10,000, taken out in Miss S's name in mid-2022.

Miss S has explained that her friend of some years offered to lend her money to help her start investing in cryptocurrency. He helped her set up a crypto account using her personal details, a copy of her ID, and her account number and sort code. He then used those to apply for loans without her consent, and told Miss S that the credits to her account were from the various businesses he owned. He convinced Miss S to forward the money on for his investment scheme, but ended up just taking all the money himself. In the end, Miss S realised she'd been scammed, and the friend began threatening her. She says this loan is one of the ones he took out.

Our investigator looked into things independently and partially upheld the complaint. They found that Miss S had not taken out the loan herself, but that she'd also not questioned things sufficiently, particularly as another loan was paid into her account with a reference which made it clear it was a loan. So they thought she should be liable for the loan's principal, but not its interest, fees, or credit file implications.

RateSetter agreed to remove the interest and fees, and to remove the entry from Miss S's credit file. Miss S asked for an ombudsman to look at things afresh, so the complaint's been passed to me to decide.

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.

It seems that both sides now accept that Miss S was scammed, and that the loan was taken out by someone else without her consent. This is also supported by the wider evidence, such as some of the details provided at application not matching up to Miss S, another business finding that those details linked to people on the national fraud database, Miss S's clear and consistent testimony that's backed up the copies of messages she's provided, and RateSetter's identity check call being with someone who was clearly not Miss S.

I'm reasonably satisfied that Miss S did not agree to this loan, or its term, schedule of repayments, interest rate, and so on. And broadly speaking, RateSetter can't fairly hold Miss S to the terms of a loan agreement she didn't actually agree to, nor should it report an account on her credit file that she didn't actually take out. So it follows that RateSetter shouldn't hold Miss S liable for any interest or fees, nor report it on her credit file.

When it comes to the principal of the loan, I need to consider whether Miss S should have reasonably realised that the money she'd received was a loan, and whether she did enough to verify what was really going on.

By the time Miss S received this RateSetter loan, she had already received loans from other companies, including one with a payment reference which set out clearly that it was a loan. I can see that Miss S's own bank contacted her to discuss the odd account activity, and discussed the possibility that she was being scammed. But Miss S repeatedly assured her bank that everything was legitimate, telling them a made-up story that her friend told her to tell. Similarly, I can see that Miss S's bank gave her warnings about investment scams, but she went ahead anyway. And I can't see that Miss S carried out reasonable checks or due diligence to verify what her friend was telling her.

I do understand that Miss S was being pressured by a friend who she trusted, and of course I sympathise with the fact that she fell victim to a scam. But by the time the RateSetter loan was paid into her account, I find that she no longer had a reasonable basis to believe what her friend was telling her, whereas she should have reasonably realised that she was receiving the proceeds of loans which would need to be paid back.

So based on what both sides have said and provided, I can't fairly tell RateSetter to write off the principal of this loan. This is a difficult message for me to give, and I know it's a difficult message for Miss S to receive. But given circumstances of the case and the evidence at hand, I'm unable to reasonably reach any other conclusion.

Putting things right

I direct Retail Money Market Ltd to remove any interest and fees from this loan, and to remove it from Miss S's credit record, along with any other negative information they may have recorded against her in relation to this loan. However, I find that they can still hold Miss S liable for the principal sum of the loan – just not under the terms of the loan agreement.

My final decision

For the reasons I've explained, I uphold Miss S's complaint in part, and direct Retail Money Market Ltd to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 31 July 2023.

Adam Charles
Ombudsman