

## **The complaint**

Miss H complains that Metro Bank PLC trading as RateSetter is holding her liable for a loan which she says she took out under duress, and which is unaffordable for her.

## **What happened**

In December 2021, Miss H entered into a credit agreement with RateSetter. The loan was for £14,000. Miss H was due to repay £448.55 per month over a period of 36 months.

Miss H has explained that she was coerced into taking out this loan. She went on a date with someone but decided she wasn't interested in pursuing a relationship with him. She says the man became abusive and threatened her and her child, forcing her into taking out this loan and transferring on the funds.

According to her bank statements, she received the £14,000 loan on 3 December 2021 – alongside another £10,000 loan taken with another lender. That same day, £10,000 and then £7,000 were transferred to a new payee. Followed by a further £7,000 to that same payee a few days later. I understand the first two payments were made in branch and the final payment was made via mobile banking.

Within a week or so, Miss H reached out to RateSetter about what had happened. She said she wasn't aware of the loan and had been forced to sign the documents. RateSetter said it had sent her a text about the loan, meaning she would have been aware, and that it was a civil matter. She complained, but RateSetter maintained she was liable for the loan.

Unhappy with this response, Miss H referred the matter to our service. Our investigator didn't uphold her complaint. They didn't think RateSetter ought to have been concerned about the application. They noted that Miss H's income had been substantially inflated on the application. But overall, they thought it was reasonable for RateSetter to grant the lending based on the application and the results of its checks.

I issued my provisional decision in June 2023 explaining why I was minded to uphold this complaint. Both parties have since responded to confirm they have nothing further to add.

## **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.

As there are no further points or arguments to consider in response to my provisional findings, I see no reason to depart from these. I'm therefore upholding this complaint for the same reasons as I did in my provisional decision, as set out below:

### Did Miss H take out the loan?

From the records I've seen, it appears Miss H initially told RateSetter she wasn't aware that the loan was being taken out. But it's not in dispute that she signed the agreement; she admits to doing so, albeit under duress. She also received a text about the application. Whilst she initially told RateSetter she didn't see this, she now accepts that she did. And she also emailed RateSetter shortly after signing the agreement.

I therefore consider it clear that, although I think the application was likely filled in by another party, Miss H was the one to sign it. And I think she ought to have understood that, by doing so, she was taking out lending and agreeing to the terms of the contract. So the starting position is that Miss H is bound by the terms of the loan agreement.

### Was the money lent responsibly?

Part of Miss H's complaint is that it was irresponsible for RateSetter to have granted this lending. She says she can't afford to repay it. And the income reported on the application (£60,000) was significantly higher than her actual income.

I would have expected RateSetter to complete reasonable and proportionate checks to satisfy itself Miss H could afford to repay the lending in a sustainable way. There's no set list of checks that it ought to have carried out, but I'd expect it to consider factors such as the size and term in the lending when determining what level of checks were reasonable.

Under the terms of the agreement, Miss H was expected to repay a total of £16,147.80 over three years. That is a significant amount to repay. So I would have expected RateSetter to complete fairly thorough checks to reassure itself it had adequately considered Miss H's circumstances.

Looking at the checks RateSetter completed, I'm not persuaded they were proportionate. It seems RateSetter largely relied on Miss H's credit file to verify her details. But the information it has provided about those credit checks appears to be inaccurate. For example, it doesn't show an ongoing hire purchase I've seen evidence Miss H was (and is) repaying – meaning it didn't adequately consider her other financial commitments.

Additionally, the application lists Miss H's yearly income as £60,000 – with a monthly income of £3,414.59. Whereas her statements show her monthly income was far less than this, seemingly around £1,500 per month in the months leading up to the lending.

RateSetter says it did assess Miss H's income and it passed its confidence threshold. But I don't consider that reasonable. Her actual income appears to be less than half the income recorded on her application. In my view, Miss H's level of her income compared to the amount of lending, as well as the fact there were such a big discrepancy in the information provided in the application, ought to have led RateSetter to have completed further checks.

If RateSetter had looked into Miss H's circumstances further, I'm not persuaded it would have been satisfied she could sustainably repay the lending. The monthly repayments utilised around a third of her total income. And when accounting for her expenses (such as rent, bills, hire purchase repayments, travel costs, groceries and childcare), it doesn't appear to leave much, if any, disposable income. In fact, Miss H says her outgoings are higher than her income.

And so I'm not persuaded the money was lent responsibly. I therefore consider it unfair for RateSetter to charge Miss H interest and fees on top of the lump sum it gave her.

Miss H still received a payment of £14,000 from RateSetter. So my starting position is that RateSetter can seek to recover this. But I'll go on to consider whether that's fair and reasonable in all the circumstances – given the way in which the loan was taken out, how the funds were used, and Miss H's circumstances.

Is it fair and reasonable for RateSetter to expect Miss H to repay the capital?

I'm not persuaded RateSetter ought to have realised Miss H might be acting under duress at the point of granting the lending. The application was done online and was verified using Miss H's genuine phone number and email address. So I don't think it had grounds to be concerned about the circumstances under which she'd signed the agreement.

Miss H says that, only minutes after being forced to sign the agreement, she sent RateSetter an email saying: "I do not wish to take this loan, please can you cancel thank you". But I've found that, around half an hour later, she sent a further email saying: "sorry please ignore that".

I therefore don't agree that RateSetter ought to have cancelled the loan (which in any event had already been 'released' upon the agreement being signed) or followed up further. Miss H didn't do anything further to return the funds or notify RateSetter of the situation until after the funds had been transferred on.

But I've also thought about what RateSetter ought to have done when Miss H notified it of the circumstances in which the loan was taken. I can see she transferred the funds on to a third party within a few days of receiving them. She didn't spend the funds herself and there's no indication she benefitted from them in any way. I also think her personal circumstances, which RateSetter are aware of, made her more vulnerable to being coerced in this way.

I am mindful that, despite initially telling RateSetter the transfers were completed by the person threatening her and/or his associate, Miss H did go into branch to complete some of these payments after they were blocked. So while I accept the payments may have been initiated by someone other than Miss H, she did complete steps to enable some of them to go through.

RateSetter has expressed concern about some discrepancies in Miss H's account of what happened. Such as about who transferred the funds. Additionally, she initially said she wasn't aware of the loan. Yet she received a text about it, signed the application, and then emailed RateSetter about it.

I therefore understand some of RateSetter's concerns. That said, I am persuaded Miss H was likely coerced/pressured into agreeing to the loan and then transferring on the funds. Although she initially only reported the incident to Action Fraud, I can see why she did that – as the situation does feel somewhat akin to a scam. And she has since also reported the threats made to the police, which I don't think she would be likely to do if she was complicit in the set up.

I also don't consider all the discrepancies to be that suspicious. Miss H has explained that the individual threatened her and her child, so she was understandably scared and unsure of what to do. And so that has to be borne in mind when considering why Miss H took the action she did (such as going to branch to complete the payments).

I also think that, once the incident was over, she may have been wary of how it might be perceived and so have sought to 'minimise' what she knew. That doesn't mean she hasn't been the victim. I've not seen anything to suggest she's in any way benefitted from the loan funds.

I'm also conscious of the large financial impact this situation has had on Miss H. She recently tried to set up a repayment plan with RateSetter. And it told her it couldn't do so as the repayments would be unaffordable for her. Miss H has been seeking support from a debt charity, but it looks like any options available to her in order to repay or release her from this debt would have a very large impact on her.

And so given the circumstances under which this loan was taken; the fact Miss H hasn't benefitted from it; and the large impact it would have on her if she were to be expected to repay the loan, I don't consider it fair and reasonable for RateSetter to pursue her for this amount. I'd also point out to RateSetter that, even if it tried to do so, it appears unlikely to me that it would be able to recover much of the borrowing within a reasonable time.

### **Putting things right**

I understand Miss H hasn't made any repayments towards this loan. But if she has, Metro Bank PLC trading as RateSetter should refund these amounts and pay 8% simple interest per year on them, from the dates of payment to the date of settlement.

RateSetter should also write-off this lending – i.e. stop pursuing Miss H for the debt – and update her credit file to reflect this. It should also remove any adverse information recorded on her credit file in relation to the loan.

### **My final decision**

For the reasons given, my final decision is that I uphold this complaint and direct Metro Bank PLC trading as RateSetter to put things right as set out above

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 17 August 2023.

Rachel Loughlin  
**Ombudsman**