

## **The complaint**

Mrs H's complaint arises out of a buy-to-let (BTL) mortgage she used to hold with Capital Home Loans Limited (CHL). Mrs H says that after the property was sold by CHL, Mrs H wasn't able to collect her furniture and fittings from the property. Mrs H wants CHL to pay her £4,000 compensation.

## **What happened**

Mrs H has brought a number of complaints to our service arising from this mortgage with CHL. Her other complaints are that CHL didn't treat her fairly in relation to arrears-handling, that it refused to agree payment arrangements and then sold the property for less than it was worth, resulting in a shortfall debt. Those matters were the subject of an Ombudsman's final decision dated 8 February 2024 so I will make no further comment on those matters; I mention them merely for context.

This complaint is that, because the property was sold with tenants in situ, Mrs H wasn't able to collect her furniture and fittings.

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mrs H being identified.

So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

Mrs H had a BTL mortgage with CHL taken out in 2006 on which she'd borrowed £261,000. The mortgage had been in arrears and, because CHL had paid ground rent and service charge owed by Mrs H to the freeholders/managing agents, the balance on the account had substantially increased. In September 2022 CHL told Mrs H it was going to use the power of sale under the mortgage to sell the property.

I won't set out the details of the sale, as these are contained in the Ombudsman's decision on Mrs H's other complaint. But I note that the property was sold on 6 April 2023.

CHL's contact notes show that Mrs H emailed CHL on 24 March 2023 asking for the sale to be halted, and that the buyer needed to be charged for items left in the property. CHL confirmed that Mrs H could collect all items at a time convenient to her, as she still had access to the property.

On 4 April 2023 Mrs H emailed CHL again to say she could collect the items in June. CHL replied to say that completion was imminent and suggested Mrs H contact its (named) solicitors in order to liaise with the new owner over collection of items. CHL's solicitors

contacted Mrs H on 6 April 2023 and said: *“Regarding any personal items that are at the property, please can you confirm you consent to me sharing your contact details with the buyer’s solicitor. They will need to arrange collection with you...”* Mrs H refused to give her consent.

Mrs H didn’t collect her items and complained to CHL, which didn’t uphold the complaint. CHL said it was Mrs H’s responsibility to arrange collection of any property she had left in the property prior to completion, or otherwise make her own arrangements with the new owner after completion.

Dissatisfied with CHL’s response, Mrs H raised her complaint with our service. Two Investigators looked at what had happened, but neither of them recommended the complaint should be upheld. They were both satisfied that Mrs H had been given the opportunity to remove any belongings from the property.

Mrs H didn’t agree with the Investigators and asked for an Ombudsman to review the complaint. She said that CHL had no authority to sell her items and so is responsible for compensating her for this loss. She said that the fact that CHL had no access to the property or wasn’t able to negotiate with the tenant is irrelevant.

### **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’m afraid I have disappointing news for Mrs H; I’m not upholding her complaint. These are my reasons.

After reading the email exchanges between Mrs H, CHL and their solicitors, and reading the contact notes from the relevant period, I’m satisfied that Mrs H was given sufficient time to collect her belongings from the property before it was sold. It seems that she was resistant to doing so because she was continuing to challenge the authority of CHL to sell the property as mortgagee in possession right up to the date of completion of the sale.

I appreciate Mrs H might have wanted to halt the sale, but I’m satisfied Mrs H was told of the date of completion (6 April 2023). She was also informed by CHL’s solicitors that after completion she’d need to liaise with the new owner over the collection of any items from the property.

It was Mrs H’s responsibility to arrange to collect her belongings before completion. CHL’s responsibility was to facilitate that, and I’m satisfied it did so. It was Mrs H’s choice not to arrange collection prior to completion of the sale. Once the property was sold, it was no longer anything to do with CHL. If Mrs H believes there are chattels, furniture, fixtures and fittings in the property that are her personal property, she will need to liaise with the new property owner and any tenant who lives in the property in relation to removing those items.

### **My final decision**

Whilst I appreciate Mrs H will be disappointed, my final decision is that I don’t uphold this complaint.

This final decision concludes the Financial Ombudsman Service’s review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 7 May 2024.

Jan O'Leary  
**Ombudsman**