

The complaint

Mr K complains that Black Horse Limited is pursuing him for a debt he doesn't owe.

What happened

On 16 August 2017, Mr K entered a hire purchase agreement for a car (registration ending DPZ, agreement ending 291) which was to be repaid over 48 months. Unfortunately three months or so later, the car was stolen. Mr K's car insurer agreed to replace the vehicle with a brand new one, but it would take time to source. On 25 June 2018, a new vehicle (registration ending OWU, agreement ending 268) was provided by the insurer and Mr K collected it in July 2018.

The car dealer set up a new finance agreement for the new vehicle (agreement 268). Black Horse told the dealer that it shouldn't have done so as the new vehicle should take the place of the stolen one on the existing finance agreement. There was some confusion between the dealer and Black Horse, but ultimately the agreement for the replacement car was cancelled, leaving the first agreement (291) in place and to be paid.

Mr K continued to make payments to the first agreement regularly until August 2019, when arrears began to accrue. Mr K sent Black Horse cheques in an attempt to settle the account in full in August 2019 and November 2019, but each time the cheques were returned unpaid by his bank. He then continued to make sporadic payments to the account.

In December 2021, the final payment of the 48-month agreement was due. It was a "*balloon payment*" of £23,261 plus arrears accrued of £5,620.92. Mr K made a few more repayments between January and August 2022 by which time the outstanding balance was £27,841.92.

In December 2023, Mr K complained to Black Horse about contact he was receiving from its' collections department because he said he believed the agreement was settled. Black Horse wrote on 5 December 2023 saying it was obliged to inform him of his arrears and it could find no error on its' part.

Mr K didn't accept that and provided a letter from Black Horse dated 21 December 2023 he'd received following an enquiry. It contained the vehicle registration of OWU and said that the finance had been settled. Black Horse looked into his complaint and wrote to him on 22 February 2024. It explained that the letter he'd received was referring to the second agreement (268) which had been opened in error and repaid in full in July 2018. A second letter had been sent to Mr K on 28 December 2023 which contained the same detail alongside the agreement number 268. Black Horse said the balance remained outstanding under agreement 291.

Mr K didn't accept what Black Horse said and referred his complaint to our service. One of our investigators looked into it. He agreed with Black Horse and explained his opinion to both parties.

Mr K didn't agree with our investigator, so the complaint has been passed to me for a final 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.

It's clear when reading the file on this complaint, that there has been some confusion as a result of the second agreement (268) being set up by the dealer for the replacement car after the first was stolen. In my experience, it is usual practice for the original agreement to remain in place in these circumstances as it has here – there was no need for the second agreement to be set up.

Mr K entered agreement 291 to acquire a car and agreed to pay a total of £67,512.42 including the cash price plus various interest and charges. He paid a deposit of £6,000 meaning he had a balance to pay of £61,512.42 over 48 months: 47 monthly repayments of approximately £814 and a final payment of £23,261.

While the car under that agreement was stolen, he was provided with a car of a similar specification. While the new car was provided by his insurer, clearly there was still a large debt owing to Black Horse which Mr K was liable for under the original agreement he'd entered into. In other words, he still had to pay for the car in line with that agreement (291).

I've seen a payment history for the agreement 291 and note that the payments under this continued until August 2019. And I can see that Mr K did try to settle the account on a couple of occasions too as set out above, but these payments failed. So I think it's reasonable to conclude that Mr K was aware of the debt and that he was liable to repay it.

I've seen a payment history for agreement 268 which shows no payment ever being received to that account other than balancing entries to close it down a month after it opened. I've thought about the letters Mr K received in December 2023 saying the finance was repaid. It is clear to me given the detail in those letters and the payment histories I've seen, that they refer to agreement 268 which had been set up erroneously. Mr K has never made any payments to agreement 268, so I don't think it would be reasonable for him to conclude that it had been repaid as a result of his actions. I don't think they confirm Mr K has paid sufficient to satisfy his debt to Black Horse.

Overall, I'm satisfied that Mr K agreed to pay £61,512.42 to Black Horse for a car. While the car he still has is a different one from that which he received initially (as the original was stolen) it's clear from the payment histories that he's not paid the amount due under the agreement, but he has received a car of the specification agreed under it.

That being so, I don't think it would be reasonable for me to uphold Mr K's complaint that Black Horse should not be chasing him for payment. If Mr K can provide Black Horse with evidence that he has paid all the money due under the agreement, then I would expect it to look into that further. But from the evidence provided by both parties to the complaint, I don't think that is the case.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 31 October 2024.

Richard Hale
Ombudsman