

The complaint

Mr I complains that Time Broker Finance Limited ("Time") didn't let him know that a hire agreement was going to be automatically renewed.

What happened

In July 2018 Mr I entered into a hire agreement, as a sole trader, for the hire of an ice cream machine. The agreement explained that at the end of the 60-month term it would run on, unless Mr I notified the business in writing at least a month before the end of the primary term.

Time wrote to Mr I and his restaurant in two separate letters in May 2023 to remind him that the primary term was ending and that a secondary hire period would begin unless he told them to cancel. Those letters were sent to an old address and Mr I says that he'd advised Time of his new address in March 2021 and that they were, therefore, unreasonable to continue to extend the lease into a second term when after six years he wouldn't have remembered that may be likely.

Our investigator didn't uphold Mr I's complaint. She noted that the agreement explained there would be an automatic renewal and that even if Time failed to remind Mr I about it, it was still reasonable for them to let the agreement run on.

Mr I didn't agree with our investigator's opinion, and he asked for a decision by an ombudsman.

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.

I know it will disappoint Mr I, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

While there may not be a law mandating reminders before auto-renewal. A combination of regulations and industry guidance creates a strong expectation that businesses should provide reminders before agreements automatically renew. Most businesses will, therefore, provide reminders.

Time did provide a reminder here as they wrote to Mr I and his business to explain that the primary term was almost up. They've provided a screen shot of their system that persuades

me that at least the letter of 18 May 2023 was sent. Unfortunately, that reminder was sent to the wrong address. Mr I has sent copies of emails he had with Time relating to another matter. In an email he sent on 12 March 2021 he asked Time to confirm his address had been amended to his new business address. I can't see that Time ever confirmed that, so I don't think Mr I could have been assured they had his correct address, and while it's clear that Time didn't amend the details, I think Mr I must take some responsibility for not insuring they did.

I think Time should compensate Mr I for their failure to amend his address, but I don't think it would be fair to ask them to waive any additional hire charges Mr I may have incurred as a result of the hire agreement automatically renewing. I think it should have been clear to him that Time were unlikely to have changed his address, and the terms of the agreement did explain that a secondary hire period would begin if the agreement wasn't cancelled.

The hire agreement explains that if the agreement runs on, it can still be cancelled by giving one month's notice. If Mr I hasn't already done that, he can save further charges by doing so. But while I'm asking Time to pay him some compensation, I'm not asking them to do anything in relation to the secondary hire term.

My final decision

For the reasons I've given above, I uphold this complaint in part and tell Time Broker Finance Limited to pay Mr I £100 to compensate him for the distress and inconvenience caused when they failed to amend his address.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 4 November 2024.

Phillip McMahon
Ombudsman