

complaint

Mr A complains that Nemo Personal Finance Limited is chasing him for a debt he doesn't owe.

background

Mr A took out a secured loan with Nemo in 2007. The loan fell into arrears and Nemo started possession proceedings. In May 2015 the court ordered that Mr A make monthly payments including an additional amount to repay the arrears. Mr A says he kept up payments until Nemo told him in May 2017 the arrears had been cleared. The loan term has now ended and Nemo says he still owes a debt. Mr A says he's kept to the terms of the court order and Nemo has added unfair charges.

The adjudicator didn't recommend that the complaint should be upheld. She said the court took into account Mr A's payment history and circumstances when it set out the monthly payments. While Mr A complied with the court order for some time, he then stopped making regular payments towards the arrears. Interest was applied to the loan balance which was higher due to the arrears. Nemo was entitled to apply interest and charges in accordance with the terms of the loan. The adjudicator said Nemo hadn't make an error when it said there is an unpaid debt and Mr A should make payments towards the arrears as required by the court.

Mr A didn't agree. He says the loan has been repaid including interest and charges and Nemo owes him money.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

There's no dispute that Mr A's loan was in arrears or that a court said he should made additional monthly payments to clear the arrears. Nemo says the arrears are the amounts that were not paid when due. This doesn't include interest and charges.

Nemo provided notes of the court hearing. Its representative told the court that the proposed payments would clear the arrears by the end of the loan term but wouldn't clear the balance once interest and other costs were taken into account. I think the payments ordered by the court were calculated to clear the arrears by the end of the loan term. They didn't include payments towards fees or additional interest.

Nemo set out a list of fees applied to Mr A's account, which includes fees for missed payments and legal costs related to the possession proceedings. I know Mr A thinks the fees are unfair, but I think Nemo is entitled to apply these fees in accordance with the terms of the loan.

Nemo is entitled to apply interest to the outstanding balance. The arrears increased the outstanding balance. So the amount of interest applied to the loan account was more than it would have been if it hadn't been in arrears. Nemo's letters to Mr A after the court order said interest will be charged on the outstanding balance.

Nemo provided statements for Mr A's account. This shows a direct debit was returned unpaid in mid 2016. And in May 2017 Mr A stopped making additional payments towards the arrears. While Mr A says Nemo told him the arrears had been cleared he hasn't provided evidence to support this. And it wouldn't change the outcome here – that is, it wouldn't change the amount that Mr A owes.

I don't think Nemo made an error when calculating the outstanding balance on Mr A's loan account. I think, in the circumstances, it's reasonable for Nemo to ask Mr A to pay the debt owed. If Mr A has difficulties paying the debt, he should contact Nemo and provide the information it needs to agree a suitable repayment arrangement.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 26 March 2018.

Ruth Stevenson
ombudsman