

complaint

Miss K complains about the way LBL N Ireland Ltd (LBL) and its agents, handled the repossession of her car. She also complains that she has overpaid LBL. Further, she considers that the bill of sale and notices of default are invalid.

background

A summary of the circumstances leading to this complaint, and my initial conclusions, were set out in my provisional decision, a copy of which is attached and forms part of this final decision.

In short, Miss K took out a logbook loan for £1,000 with LBL in early 2015. Miss K made a number of complaints against LBL and its agents about the handling of the repossession of her car after she fell into arrears and she disputes the amount she owes under the agreement. In summary, her complaint points were as follows:

- the car was damaged by LBL's agent
- she wasn't given the chance to remove her personal items before repossession
- personal items were stolen from the car by LBL's agent
- LBL have overcharged her for the late payments
- the interest has been calculated incorrectly
- LBL should not have issued two notices of default relating to the same agreement
- the bill of sale was registered by LBL late

In my provisional decision, I set out why I thought Miss K's complaint should be upheld in part. In particular, I considered that LBL could've better handled the way it dealt with Miss K when she raised concerns about the repossessions. So I made a suggested award of £150 for the inconvenience this caused to Miss K.

I invited both parties to tell me of anything else they wanted me to consider before I finalised my views. Miss K made a number of comments in response to my provisional decision, which I thank her for. LBL had nothing further to add and agreed to my suggested award.

my findings

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've reached the same conclusion as set out in my provisional decision and for the same reasons.

As noted above, in response to my provisional decision Miss K came back with a number of points. I will now deal with these points in turn - Miss K's comments are in italics.

It has noted that I handed the keys to agent b the day of repossession. This is incorrect and is further evidenced by the note that LBL NI have also disputed that there was a key. Therefore I did not have an opportunity to remove personal belongings from the car prior to repossession. There was only one key for the car and I still had it in my possession following the removal of the car. In terms of collecting my items following the repossession I was told I could buy it would have cost me ££40 in taxi fares due to where the car was. In terms of the damage I have provided the emails detailing the issues with the car following my collection of same. If require I will search out the receipt for the repairs.

I appreciate Miss K says she didn't have an opportunity to collect her items from the car. But from what she and LBL have both said, I think she did have this opportunity. And although this might have entailed a cost, I still think LBL and its agents have acted reasonably in this regard.

In terms of the damage to her car, I think that even if Miss K could produce a receipt for repairs there would still be an issue with who actually caused the damage and when this happened. So I don't think this changes my original view. And I don't consider there is sufficient evidence for me to hold LBL, or its agents, responsible for any damage to Miss K's car.

In terms of the second repossession the police report was also in relation to the stolen items which included a sat nav and cd's. This was reported to LBL NI before the police and this is evidenced by the return email from LBL NI in which they state "we are sorry you are having problems with the repossession agent" and was following a telephone call I made to them following collection of the car. I note that it says it is for the police to deal with but when I last spoke to the police they told me that LBL NI were not fully cooperating with them and could not confirm who or where the car was during the time of the Wednesday night it was taken and the Monday morning it was left at the holding yard. It has also been left back with no diesel.

Although I appreciate that Miss K did report some matters to the police, I still consider this is for them (the police) to investigate. And I don't think there is sufficient evidence for me to hold LBL or its agents responsible for the theft of personal items from Miss K's car.

In relation to the overpayment it is more the fact that the loan was paid off some months prior. The loan was paid off in April 2016 and not May 2016 as noted.

As I explained in my provisional decision, the reason why Miss K's agreement was more than the original amount was due to repossession costs and late payment fees. I can see that Miss K did pay the balance on 28 April 2016 rather than in May. And I can see that the agreement was due to end on 1 July 2016. But the fact remains that Miss K did miss payments under the agreement, where payments were due weekly, before LBL took action to repossess her car. Therefore, I still don't think the charges were unfair or unreasonable for the reasons outlined in my provisional decision. And I don't think Miss K has overpaid LBL.

I did have concerns with the way that LBL dealt with Miss K when she contacted it about the repossessions. I didn't think that it was fair for Miss K to have had to act as a go between with LBL and its agents. As LBL is the principal, I thought it was responsible for helping Miss K deal with any problems she reported about the way the agents were dealing with the repossessions. Given the way it dealt with Miss K's concerns, I provisionally awarded Miss K £150 for the inconvenience this caused her. LBL has agreed with this settlement. And my view in this regard remains the same. So I'm upholding Miss K's complaint in part and awarding her £150 compensation for the reasons I've outlined above, together with those set out in my provisional decision which is attached.

my final decision

I order LBL N Ireland Ltd to pay Miss K £150 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 19 December 2018.

Yolande McLeod
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Miss K complains about the way LBL N Ireland Ltd (LBL) and its agents, handled the repossession of her car. She also complains that she has overpaid LBL. Further, she considers that the bill of sale and notices of default are invalid.

background

Miss K took out a logbook loan for £1,000 with LBL in early 2015. The total debt, with interest, was £2,440 to be paid over 78 weeks. Miss K missed repayments shortly after the agreement began and there were a number of months where no payments were made. As a result, LBL issued notices that her account would be defaulted in March and again in June 2015. Sometime after these notices and further missed payments, the car was repossessed by agents instructed by LBL.

The first repossession was in January 2016 and carried out by an agent, who I'll refer to as B. And in April 2016 the car was repossessed again by a different agent, who I'll refer to as C. Miss K settled the loan in May 2016. Her car has been returned to her along with the bill of sale.

Miss K says during the first repossession, the car was damaged in the process of removal by B. She also complains that she wasn't given an opportunity to remove her personal belongings. She said it will cost her £150 to repair the damage to the car. And she wants compensation for being deprived of her personal belongings for a number of days. During the second repossession by C, Miss K says some personal items were stolen from the car and that an illegal substance was left in the car by the agents (C).

In addition to the way the repossessions were handled, Miss K has a number of other complaints as follows:

- LBL have overcharged her for the late payments.
- the interest has been calculated incorrectly.
- LBL should not have issued two notices of default relating to the same agreement.
- the bill of sale was registered by LBL late.

In response to Miss K's complaints, LBL says the repossession of the car in January and April was contracted out to its agents, B and C. It says that any problems with the way this was handled including the damage caused to the car, should have been directed to their agents. In terms of the default notices, LBL says notices of default were sent to Miss K to give her a chance to pay the arrears she owed. And that due to the late payments and repossession costs this resulted in Miss K owing more than the original amount. Miss K was unhappy with LBL's response, so she referred this matter to our service.

Our investigator considered Miss K's car was only repossessed following a number of missed payments. And that the repossession costs did mean Miss K owed more than the original amount. But that these extra charges were in line with the terms of the agreement. Our investigator also concluded that any issues that arose during the repossessions were the responsibility of the agents. Overall, she considered LBL had acted reasonably. So she didn't uphold Miss K's complaint.

Miss K didn't agree with the investigator's view. She asked for the matter to be referred to an ombudsman for a decision.

my provisional 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, inconsistent or contradictory, I

have made my decision based on the balance of probabilities - that is what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

agents

Firstly, I know LBL says that anything that happened during the repossessions is the responsibility of their agents. But I think this is wrong. As principal, LBL is responsible for the actions of its agents. This is clear from the "instruction to act" document it's provided to this service. This was used to instruct its agents to carry out the repossessions and it makes clear that both agents, B and C, were acting on behalf of LBL. And as such, Miss K was right in directing her concerns about issues that she says happened during repossessions, to LBL rather than to the agents individually. With this in mind, I will now go on to consider the merits of Miss K's complaint.

repossessions

Miss K considers LBL was wrong to carry out the repossessions. In respect of the first repossession she had made a payment of £1,450. But I can see that this still left her in arrears. I can also see that before the repossessions, LBL did contact Miss K and also issued default notices. In respect of the second repossession, in April 2016, I can see that Miss K fell into arrears again and this is why the car was repossessed. Although I appreciate Miss K was disputing the money she owed, overall, I'm satisfied that LBL acted in line with the terms of the agreement. And acted fairly by giving Miss K sufficient notice of their intended actions and did give her an opportunity to arrange a repayment plan if this is what she needed.

Miss K says during the first repossession, the car was damaged in the process of removal and she was not given an opportunity to remove her personal belongings. So she considers LBL should pay for the cost of repairs along with compensation for depriving her of her personal possessions which she needed for work and for childcare purposes. But Miss K has not provided any evidence of the damage that was caused, who caused the damage or the cost of repairs. So I'm not intending to uphold this part of her complaint.

I can see the agent (B) says it did contact Miss K on the day of the repossession and keys were provided to their agent by her. They also confirmed that no possessions were within the car at the time it was removed. So I think if any items were left in the car, Miss K did have a chance to recover them before the car was taken away. And I can also see Miss K was given the opportunity to collect any items left in the car from the holding yard. So I'm satisfied that Miss K had an opportunity to collect whatever items were left in the car before and after the repossession of the car.

In terms of the second repossession, Miss K did provide LBL with a crime reference number (CRN) but this seems to be about an illegal substance she says was left in the car. LBL said Miss K didn't report the stolen items at the time of the repossession to them. So on balance, I don't think it is now fair to ask LBL, or its agents, to account for the loss of the items Miss K says were missing.

The CRN does relate to Miss K reporting an illegal substance she says was left in her car by LBL agents. And I think it's for the police to decide what to do next.

I do have some concerns with the way that LBL has dealt with Miss K when she contacted it about the repossessions. It seems that LBL has consistently directed Miss K to the agents rather than trying to help Miss K resolve any issues. I think this has led to some confusion and inconvenience for Miss K. In particular, I see there is a dispute between LBL and its agent, B, about what happened to Miss K's car key. B says the key was handed to LBL but LBL are denying this. I don't think that it's fair for Miss K to have had to act as a go between. As LBL is the principal, I think it was for it to establish what happened to the key and to deal with any other issues Miss K had. But instead LBL just gave her the phone number for the agents, who in turn redirected Miss K to LBL. Given this, in my final decision, I'm intending to award Miss K £150 for the inconvenience this caused her.

interest, other charges

I've carefully looked at Miss K's payment history. This shows she was charged £12 nine times for late payments. The total amount payable was £108. But this didn't represent the total amount of late payment charges LBL could've made. So for example between 24 April and 12 June, Miss K missed eight payments before a default charge of £12 was added. I can also see she was charged £300 for each repossession which did involve agent costs. And LBL did make efforts to contact Miss K when payments were missed. So looking at her account overall, I don't think the charges were unreasonable.

In terms of the interest charged, Miss K was charged more than the agreement amount because of the late charges as I've outlined above. I know that Miss K considers she should be charged a daily rate of interest. But the agreement from the start makes it clear what interest she would be paying and at what percentage. I can see that in total, Miss K has paid £2,870, which is £430 over the initial agreement amount. But I can also see that she accrued a further £732 in charges due to late payments and repossession costs. LBL has discounted some of these charges. And on balance, I think Miss K has been charged fairly taking into account the late payment charges and other costs associated with the repossessions.

validity of the bill of sale and default notices

Miss K says that LBL cannot issue two notices of default relating to the same agreement. But each notice was given for different breaches of the agreement. So I don't think LBL did anything wrong.

I know Miss K says the bill of sale was registered by LBL too late. But I can see it was registered within the relevant time-limit of seven days. But if Miss K thinks the bill of sale is invalid because of late registration, or any other reason, the appropriate place to challenge this is in the High Court.

So for the reasons I've given above, I'm intending to partially uphold Miss K's complaint for the inconvenience caused by the repossessions and award her £150.

my provisional decision

My provisional decision is that LBL N Ireland Ltd should pay Miss K £150.