



complaint

Mr E complains that Quinn & Co Debt Management Limited, trading as Red Dm, (“Quinn”) misrepresented a debt management plan (“DMP”) to him.

background

Mr E entered into a DMP with Quinn in January 2014. He sent it information on his debts using a courier service paid for by Quinn. This contained his bank statement and a list of his creditors. It did not however include account or reference numbers or creditor contact details. These were however obtained later during a phone call with Mr E.

The DMP was set up to cover one of Mr E’s debts with creditor H. Shortly after entering into it, Mr E became aware that this debt could not be managed under the DMP as it was a secured debt. As a result, he cancelled the DMP. Mr E had however already paid two monthly fees totalling £300.

Mr E complained to Quinn. It did not uphold his complaint. Quinn says that Mr E told it that the debt was unsecured. It only found out that it was a secured loan for a car when it received a response from creditor H. Quinn did not end the DMP at this point as it was trying to include the loan on the DMP so the car was not repossessed.

Quinn did however agree to refund one of the fees but not the other paid by Mr E. He is not happy with this and brought a complaint to us to consider.

The adjudicator recommended that the complaint should be upheld. He considered that the information provided by Mr E which showed the debt belonged to creditor H, strongly suggested that the loan was likely to be secured. This was the only debt included in the DMP. The adjudicator considered that it was unfair for Quinn to retain a fee for a service that it could never provide.

The adjudicator recommended that the fee should be refunded to Mr E together with interest. It should also pay him £50 for trouble and upset.

Quinn is not happy to accept the adjudicator’s recommendation. It says that it incurred costs in paying for Mr E’s courier costs. Further the terms and conditions of the DMP confirmed that the first two monthly payments would be fees.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I consider that it should have been apparent to Quinn when it received details of Mr E’s creditors that the debt owed to creditor H was likely to be a secured loan. Mr E’s bank statement referred to creditor H which deals mainly with secured loans. Despite this indication, Quinn included the debt under a DMP. As it was a secured loan, it was not possible for it to be managed under it. I agree with the adjudicator that it is unfair that Mr E should be charged a fee of £150 for a plan which could not deliver what it had agreed to do.

I appreciate that Quinn was trying to ask creditor H to agree for the debt to be managed by Quinn. This was however extremely unlikely given that it was a secured loan.

I note Quinn's argument that the DMP provided that the first two months payments would be used to pay its fees. I consider however that the DMP could not deliver what it promised to do. As such, Mr E should not have to pay the fees set out under the terms of it.

I do not consider it is fair that Mr E should pay the cost of the courier. This was used to send information requested by Quinn, and I do not agree that he should have to pay the cost incurred in sending it.

I agree with the adjudicator that the outstanding fee of £150 should be refunded to Mr E by Quinn together with interest at 8% from the date of payment to the date of settlement. It should also pay him £50 for trouble and upset.

my final decision

My decision is that I uphold this complaint. In settlement of it I order Quinn & Co Debt Management Limited, trading as Red Dm to pay Mr E:

- £150
- Interest on this sum from the date of payment to the date of settlement at a rate of 8% simple per annum.
- £50 for trouble and upset.

If Quinn decides to deduct tax from the interest element of my award, it should provide Mr E with a certificate of tax so that he may claim a refund, if appropriate.

Rosemary Lloyd
ombudsman