

complaint

Mr S complains that Caledonian Consumer Finance Limited won't refund to him the money that he's paid under a fixed sum loan agreement for an electrician's training course. He also complains that the loan was unaffordable for him.

background

The details of this complaint are well known to both parties and have been set out by the investigator so I won't repeat them again here. Instead I'll focus on giving the reasons for my decision.

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 agree with the conclusions reached by the investigator for these reasons:

- Mr S signed a fixed sum loan agreement with Caledonian Consumer Finance in June 2017 to pay for an electrician's training course – the cost of the course was £7,145 and he made an advance payment of £50 so the loan was for £7,095, it was interest free and he agreed to make 43 monthly payments of £165;
- he also signed a registration form for the course, a credit application and an affordability assessment – but he says that he had no correspondence from the course provider and wasn't able to contact it so hasn't been able to complete the course, he was pressurised into signing up for the course and that the course was unaffordable for him;
- he complained to Caledonian Consumer Finance and then to this service but our investigator didn't consider that there had been a breach of contract or misrepresentation by the course provider as she had evidence to show that Mr S was provided with log-in details to access the course materials and contact details for the course provider if he wasn't able to do so – and she didn't consider that the loan was unaffordable for Mr S;
- in certain circumstances, section 75 of the Consumer Credit Act 1974 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier;
- to be able to uphold Mr S's complaint about the course, I must be satisfied that there's been a breach of contract or misrepresentation by the course provider and that Caledonian Consumer Finance's response to his claim under section 75 wasn't fair or reasonable – but I'm not determining the outcome of Mr S's claim under section 75 as only a court would be able to do that;
- Mr S was sent an e-mail which provided him with the log-in details to access the course materials – he says that he didn't receive the e-mail but it was sent to the e-mail address that he'd provided and the course provider says that Mr S contacted it in July 2017 - but I've seen no evidence to show that he took any other action to access the course materials or to take or complete the course until he contacted Caledonian Consumer Finance about it in January 2019;

- immediately above Mr S's signature on the loan agreement it says: *"This is a Credit Agreement regulated by the Consumer Credit Act 1974. Sign it only if you want to be legally bound by its terms"* - he was paying £165 each month under that agreement for the course and I consider that it would be reasonable to expect him to have done more to contact the course provider about the course;
- Mr S also signed an affordability assessment which showed that he had monthly income of £2,000 and expenditure of £600 so he had £1,400 available to pay for the course – he also signed an affordability declaration on the credit application in which he confirmed that he'd provided a salary slip to the course advisor to verify his income and that he had £1,400 each month available to pay for the course;
- I consider that it was reasonable for Caledonian Consumer Finance to rely on that information and that it showed that the loan was affordable for Mr S at the time that it was made to him - so I'm not persuaded that there's enough evidence to show that the loan was unaffordable for Mr S at that time;
- nor am I persuaded that there's enough evidence to show that he was unfairly pressurised into signing the documents, that the course or the loan agreement was mis-sold to him or that there's been a breach of contract or misrepresentation by the course provider;
- Mr S has described the financial difficulties that he's experiencing – and he has my sympathy for those difficulties – but I'm not persuaded that there's enough evidence to show that Caledonian Consumer Finance has responded to his complaint unfairly or unreasonably; and
- I find that it wouldn't be fair or reasonable in these circumstances for me to require Caledonian Consumer Finance to end the loan agreement, to waive any of the loan repayments due from Mr S, to refund to him any of the loan repayments that he's made, to pay him any compensation or to take any other action in response to his complaint.

I suggest that Mr S contacts Caledonian Consumer Finance about his financial difficulties and tries to agree an affordable repayment arrangement with it. It's required to respond to any such financial difficulties positively and sympathetically.

my final decision

My decision is that I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 March 2021.

Jarrold Hastings
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