

complaint

Mr E complains that Moneybarn No.1 Limited ("Moneybarn") won't allow him to voluntarily terminate his car finance deal.

background

Mr E took receipt of a used car in 2015. He financed the deal through a conditional sale agreement with Moneybarn but in 2016 he needed an operation and couldn't work. This led the account to fall into arrears and a payment plan was arranged to help Mr E recover the account. But in 2017 when some payments were missed again, Moneybarn contacted Mr E and warned him they may need to recover the vehicle if he didn't make payments. In June 2017 further payments were missed, Moneybarn issued a default notice and when payments weren't received, they terminated the contract in July 2017.

Mr E says that he asked Moneybarn to allow him to voluntarily terminate his contract with them. He says that was his contractual right but that Moneybarn ignored his request. Instead Mr E says they opened a complaint and then proceeded to try to repossess his car.

But Moneybarn disagreed. They said they'd issued the default in June and Mr E had been given until the 17 July to make payment or the contract would be terminated. He'd attempted to voluntarily terminate on 20 July but at that point the contract had already been wound up.

So Mr E referred his complaint to this service and our investigator reviewed the evidence. But she agreed with Moneybarn. She explained that the contract had been terminated by Moneybarn and that this meant a voluntary termination was not an option.

But Mr E still disagreed. He said he'd told Moneybarn on the phone that he wanted to voluntarily terminate his deal a few days before it was terminated by them. He said they'd concealed this information from our service and that he'd supply phone records to show he'd contacted them. But as these records haven't been provided and as Mr E still disputes Moneybarn's actions, the complaint has now been referred to an ombudsman for a final 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.

I know it will disappoint Mr E but I'm afraid I agree with the investigator's opinion and for similar reasons. Please let me explain.

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.

I've reviewed the statement of account and the default notice issued by Moneybarn and I can see that the account was in significant arrears of over £1,200 in June. By the time the

contract was terminated the arrears had risen further. So it's clear that Moneybarn were able to terminate the agreement. The contract allowed them to do this. It said:

"missing payments may have severe consequences. We may terminate the agreement and may take legal action to take back the car"

Moneybarn terminated the contract on 17 July and the only information I've been provided with, shows that Mr E contacted them *after* this to discuss voluntary termination.

Mr E says he called Moneybarn a few days before the 17 July but he's not provided evidence of this. I've reviewed Moneybarn's call logs and can see no contact made by Mr E in this period. He says that Moneybarn have not disclosed the call but I don't think the evidence shows this. I've noticed that other emails and calls Mr E says he made and has provided evidence of, also appear in Moneybarn's call logs. So their records seem intact and this persuades me that it's not likely they have failed to disclose information to us.

So it wouldn't be fair to suggest Moneybarn has done anything wrong here. They managed the default in line with the terms of the contract and when arrears built up they had a right to wind up the contract.

my final decision

For the reasons I've given above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 9 November 2018.

Phil McMahon
ombudsman