

complaint

Mr G complains that his credit agreement with NewDay Ltd was not set up and says he should be refunded the payments he made.

background

Mr G says that a store employee completed a credit application form on his behalf in July 2014. He then completed his transaction in the store using his new account. He says he then received a letter from NewDay saying that his account had been suspended because it hadn't received a copy of the credit agreement. Mr G says that he had made all his payments on his account because he thought he had a valid credit agreement in place. Mr G says that given there was no credit agreement in place his payments were made erroneously they should be refunded.

NewDay says that Mr G completed an application form in store on 12 July 2014 and an account was approved with a credit limit of £5000.00. It says that a copy of the document is given to the customer and one is sent to NewDay and that the agreement details are inputted electronically so that an account can be set up straight away and a plastic card sent. It says that Mr G made a purchase on that day and then activated his card on 24 July 2014. Mr G then made further purchases and paid his account in full. It says that even though the credit agreement was not received that did not mean that Mr G should not pay for the goods he had received.

The adjudicator agreed with Mr G that a mistake was made in regards to his application form but she didn't accept that he should have his payments refunded. She said that Mr G had had the benefit of the goods he purchased and so it would be unfair for him also to be refunded the money he spent on them. The adjudicator found that Mr G's account was well managed and no long term debt was accrued. Because of this she said that she did not think the enforceability of the credit agreement was relevant in this case.

Mr G said that he did not complete or sign any form in store and that a temporary card was not provided. He said that his payments were made without a valid credit agreement and should therefore be refunded. He said there should be consequences to NewDay for not having a valid credit agreement in place.

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 understand that an error was made by the store employee when Mr G's application form was completed. This resulted in a completed credit agreement not being sent to NewDay and as a consequence Mr G's card was blocked.

My role is not to punish the business but where a mistake has been made to make sure that the customer is put back in the same position he would have been in had the mistake not been made and, where appropriate, to award compensation.

I understand Mr G's comments about enforceability. While I understand that the mistakes made meant that no credit agreement was in place, I do not find that this means Mr G should not be required to pay for the goods he bought. Mr G made a number of transactions and

received the benefit of the goods. Therefore I find it reasonable that he pays for these. Mr G paid his account in full on time and so no charges were incurred. Based on this, I do not find that he has suffered any financial loss as a result of this issue.

When NewDay did not receive a copy of the credit agreement it contacted Mr G to explain this and say that his account had been blocked. It said that Mr G could reactivate his account by visiting the store and completing a new application form. I understand that Mr G did not want to do this.

Overall, while I understand Mr G's comments about the consequences of not setting up the credit agreement correctly, I do not find in this case that NewDay is required to refund the payments Mr G made.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 1 June 2015.

Jane Archer
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