

complaint

Mr T complains that Vanquis Bank Limited won't reimburse a credit card payment he made when his car was clamped and impounded. He claims the bank's jointly liable under section 75 of the Consumer Credit Act, and that payment was taken under duress. Mr T wants Vanquis to rework his account and his credit file as if the transaction was never made. And he wants compensation for his time and distress. Vanquis has declined Mr T's request. It doesn't accept he has a valid claim.

our initial conclusions

Our adjudicator wasn't persuaded Mr T's complaint should be upheld. He was satisfied Mr T agreed to pay the charge, which seemed to relate to non-payment of car tax. As Mr T had withheld payment, Vanquis had recorded this information on his credit file. The adjudicator also felt Vanquis hadn't acted unreasonably in the steps it took in seeking repayment. But Mr T didn't agree. He maintained his original points, and asked for this review.

my final decision

To decide what's fair and reasonable in this complaint, I have considered everything Mr T and Vanquis have provided¹.

I've read Mr T's submissions in full. But having done so, I'm satisfied Vanquis was entitled to debit the payment to his account. And I've not seen any persuasive reason why it should reimburse him. Mr T hasn't offered anything to show his car was incorrectly clamped, such as evidence that it was correctly taxed. His receipt shows he also paid a surety, which is consistent with the information shown on the DVLA website². On balance, based on what I've seen, I'm not persuaded there's been a breach of contract or misrepresentation giving rise to a section 75 claim.

Mr T claims he only made payment under duress. I accept the possibility of his car being destroyed was a strong incentive. But, again on balance, this seems only to have arisen because Mr T hadn't taxed his car. And he wasn't obliged to make payment. He could have allowed the destruction of his vehicle. Clearly he didn't want to do that – that's why he made the payment.

For the avoidance of doubt, I don't consider Vanquis has done anything wrong here, either in debiting the payment or in seeking to recover money under the terms of the credit agreement.

It follows that 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 T either to accept or reject my decision before 5 November 2013.

Niall Taylor

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

¹ Where there's a dispute about what happened, I've based my decision on the balance of probabilities. In other words, on what I consider most likely to have happened in the light of the available evidence.

² source: <https://www.cartaxenforcement.co.uk>

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.