

complaint

Mr Z complains that a car he bought under a conditional sale agreement with Moneybarn No.1 Limited (Moneybarn) was not fit for purpose. He considers that it has wrongly put adverse information on his credit file and this has impacted on his mortgage application.

background

I set out the background to this complaint in my provisional decision. In it, I said I intended to uphold this complaint in part because I had reached the following conclusions.

The car was faulty when the supplier delivered it to Mr Z. Further, I was satisfied that Mr Z would have rejected the car immediately but for the supplier agreeing to carry out the repairs.

I concluded the supplier did not carry out the repairs and this was not Mr Z's fault. On this basis I said Moneybarn should:

- Write off the outstanding balance of Mr Z's debt with it.
- Remove the default it has registered on his credit file and mark the debt as settled.
- Pay Mr Z £100 for distress and inconvenience.

I invited the parties to respond to my final decision. Mr Z said he accepted it. Moneybarn rejected it.

It said, in summary, that Mr Z had been the author of his own misfortune because both the supplier and the broker were prepared to carry out the repairs but Mr Z, suffering from buyer's remorse, did not take them up on the offer.

Further, it said, Mr Z had agreed to carry out repairs to the car he part exchanged but he never did and this "*soured*" the relationship between him and the supplier.

It pointed out Mr Z had got good use out of the car. And it considers my provisional decision means it is footing the bill for this.

Moneybarn continued by saying it was wrong to ask it to mark the debt as settled. It asked me to consider a counter offer – namely – it would write off £1,538 and pay £100 for distress and inconvenience.

my findings

I thank the parties for their responses to my provisional decision; I have re- considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where there is a dispute about what happened, I have based my decision on the balance of probabilities - in other words, on what I consider is most likely to have happened in the light of the evidence.

I can well understand why Moneybarn is so dissatisfied with my provisional decision. The majority of the things that went wrong here were- it seems - down to the supplier.

That said, I am reasonably sure that the supplier did deliver the car to Mr Z in the middle of the night, without warning and posted the keys through his letterbox. I am satisfied that its actions suggest it knew the car was faulty and Mr Z would object to the state of the car. I can see that Mr Z wasted no time in tackling the supplier about the faults he tells us about. It's clear that the supplier in response agreed to carry out the repairs. All of this suggests to me that the car was faulty from the beginning. I have no doubt that if the supplier had not agreed to carry the repairs Mr Z would have rejected it immediately. And it's clear that the supplier did not carry the repairs. So I do not accept that it's fair to suggest that Mr Z had buyer's remorse and that was the issue here.

Mr Z will not be getting all of his money back so he too has suffered a loss and in this way he is paying for the use that he had from the car.

I consider it is fair to mark the debt as settled in the circumstances for the reasons I set out above. In all the circumstances I do not consider the counter offer from Moneybarn goes far enough as it does not address the crux of this complaint – i.e. that the supplier provided a faulty car which Mr Z was entitled to reject.

I regret to hear that Moneybarn considers I have not fairly assessed its position. I have considered it closely but I do not agree with it. But I hope Moneybarn can understand the reasons for my decision.

I have not been persuaded by Moneybarn's responses to my provisional decision. It follows that I have reached the same decision as I did in it, for the reasons set out above and in my provisional decision.

my final decision

My final decision is that I require Moneybarn No.1 Limited to:

- Write off the outstanding balance of Mr Z's debt with it.
- Remove the default it has registered on his credit file and mark the debt as settled.
- Pay Mr Z £100 for distress and inconvenience.

Moneybarn must pay the total compensation within 28 days of the date on which Mr Z accepts my final decision. If it pays later than this it must also pay interest on the £100 from the date of the final decision until the date of payment at the rate of 8% per year simple.

If it considers it is legally required to deduct income tax from that interest, it must send a tax deduction certificate with the payment so that Mr Z can reclaim the tax if he is able to.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr Z to accept or reject my decision before 30 December 2014.

Joyce Gordon
ombudsman