

complaint

Mr A complains that Oakam Ltd took money from his bank account without authorisation. He asks for an apology and compensation for his stress.

background

Mr A took out a £500 loan with Oakam in March 2015. The loan was repayable in instalments over three months. Repayments weren't made on time and the outstanding balance (of £75) was passed to a debt collection business. Mr A says he's recently repaid the balance.

Mr A says Oakam took money from his account in December 2015 without his authorisation, leaving him without money for food and transport. He says it didn't help him when he called.

Our adjudicator recommended that the complaint should be upheld, saying:

- Oakam debited about £150 from Mr A's account in December 2015 using a continuous payment authority. It had attempted to take a payment in early October, which failed, and made five more unsuccessful attempts to take payment in October and November 2015. When its attempts to take payment failed Oakham should have considered whether Mr A was in financial difficulty. Making repeated attempts to take the payment was unfair.
- Oakham should have considered other ways to recover the debt, such as agreeing an affordable repayment plan. Had it done so, it was likely the debt would have been repaid. While Oakham says it was unable to get in contact Mr A, it had opportunities to discuss repayment when Mr A called in September and December 2015 and September 2017.
- when Mr A contacted Oakham in December 2015 and said he had financial difficulties Oakham agreed to refund £75. This was on the basis Mr A would repay £75 the following week. Mr A didn't make the payment.
- Oakham promised Mr A a call back in September 2018. It made the call the following day. There was no evidence this caused an unfair amount of stress or inconvenience.

Our adjudicator said Oakham should pay compensation of £75 to Mr A for the trouble and upset caused. She said while Mr A said the debt was repaid, if there is an unpaid balance with the debt recovery agent Oakham should arrange to pay it or write it off.

Oakham didn't agree, saying it's not appropriate to refund a legitimate balance owed. It said it attempted to contact Mr A to set up a payment arrangement but was unable to reach him.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

what happened?

Mr A took out a loan with Oakham in March 2015. Mr A gave Oakham a continuous payment authority which allowed it to take payments from his account. He agreed to repay the loan in instalments (£106 each fortnight) over three months. Mr A didn't maintain repayments.

Mr A made a payment in early September 2015. He agreed that Oakham should take £150 in early October. Oakham made six attempts to take the payment from Mr A's account during October and November 2015, all of which failed.

Oakham took two payments on 11 December 2015, totalling about £150, which repaid the balance of Mr A's account. Mr A contacted Oakham a few days later. He said Oakham didn't have authority to take the payments and he was in financial difficulties. Oakham refunded £75. Mr A agreed to repay the £75 – which would clear the loan balance – the next week. He didn't make the payment.

Oakham didn't apply any further interest or charges to the debt. The £75 balance was passed to a debt recovery agent. Mr A says he's recently repaid the balance to the debt recovery agent.

did Oakham act fairly?

Mr A had agreed to make a payment in early October 2015, so I don't think it was unfair for Oakham to try and take the payment in early October. Oakham says it was unable to reach Mr A about the failed payment or to reach a new repayment arrangement. But I think the repeated failed attempts to take payments should have alerted Oakham to the possibility that Mr A had financial difficulties. I don't think it was fair to take £150 from his account in these circumstances.

what should happen now?

Mr A didn't make his contractual loan repayments on time. He agreed to make payments during 2015 which he didn't fulfil. And he didn't repay the £75 in December 2015, as he'd agreed. That could be because his financial situation meant he was unable to do so. But I can't see that Mr A made any attempt to contact Oakham about repaying the balance until September 2017. And then, again, he made a promise to pay which he didn't fulfil.

I don't think it's reasonable to say that Oakham should have written off the balance in late 2015. It should have asked Mr A for information about his financial circumstances with the aim of reaching an affordable repayment arrangement. However, I think it's unlikely Mr A would have maintained a repayment arrangement if Oakham had been able to agree one with him. So I don't think it's any more likely that the loan would have been repaid if Oakham had made more efforts to contact Mr A instead of trying to debit the amount owed under its continuous payment authority.

Mr A says he's repaid the loan. So I have to consider whether it's fair and reasonable to require Oakham to pay compensation to Mr A.

I understand the points made by Oakham – that the debt was due, Mr A had broken payment arrangements and he didn't stay in contact. But I think it's likely that Mr A's circumstances made it difficult to maintain payments, and he needed money for everyday expenses, such as food and travel. I think it was unfair for Oakham to debit £150 from Mr A's

account when it had been alerted to the risk that he was in financial difficulties. I think this would have caused Mr A trouble and upset and I think it's fair and reasonable to require Oakham to pay £75 to Mr A as compensation for this.

my final decision

My decision is that I uphold this complaint. I order Oakam Ltd to pay £75 to Mr A.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 8 December 2019.

Ruth Stevenson
ombudsman