

complaint

Mr M is unhappy that MBNA Limited didn't close his credit card account.

background

Mr M has a credit card account with MBNA. He also has a gambling problem. His credit card account balance was made up of gambling debts.

In September 2013 Mr M received help from his family to make several large payments to MBNA. But he also carried on gambling. So the payments didn't clear Mr M's balance.

On 7 October 2013 Mr M called MBNA. He says this was to find out his balance. He wanted to clear it and close the account. Mr M says MBNA told him he couldn't close the account for another week.

The next day, another large payment was made to Mr M's account. Again, this was made with the help of his family. A balance of over £500 was left outstanding. During the rest of the month, Mr M continued to use his credit card. The balance on the account increased again. He says if MBNA had closed his account when he wanted to, he wouldn't have been able to use his credit card to carry on gambling.

Our adjudicator found that MBNA had done nothing wrong. She said Mr M continued to use his credit card to gamble. This was why he had a large outstanding balance on his account. The adjudicator also found that MBNA had treated Mr M positively and sympathetically once it knew he was in financial difficulties.

Mr M remains unhappy. He wants an ombudsman to look at his case. He says that MBNA has breached the Consumer Credit Act 1974 in various ways.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In cases like this, where the evidence is contradictory, I reach my decision by looking at all the available evidence. I'll then decide what I think is most likely to have happened.

Mr M has made many arguments in support of his complaint. But my decision focuses on what I consider to be the main issue. Is MBNA entitled to ask him to repay the outstanding credit card debt?

Mr M is very upset that MBNA hasn't been able to provide a recording of the call he made on 7 October 2013. It is unfortunate that a recording isn't available. But, unlike Mr M, I don't find this suspicious. Many financial firms don't record every single phone call. MBNA is one of them. It has been consistent throughout that this particular call wasn't recorded. I accept this.

I can see from both Mr M's and MBNA's evidence that this was a heated call. Mr M says he was exasperated with MBNA. It says it was a bad phone line. It was hard to understand him. There was also a dispute when Mr M gave the phone to his sister. MBNA says it refused to talk to her about his account as it didn't have permission to do so.

I can also see that the outstanding balance on Mr M's account was talked about. So were the fees and charges. MBNA told him why his balance was more than he thought. He asked for his account to be closed. MBNA updated his address.

MBNA wrote to Mr M. The letter was dated the same day as the call. It said his account was being closed. It told him to stop using his credit card. It told him to destroy it. But MBNA had taken Mr M's new address down wrong. He never got the letter.

MBNA didn't close Mr M's account. There was always at least a small outstanding balance. It was never fully reduced to £0.

Later that month Mr M found out he could still use his credit card. He carried on using it to gamble. MBNA says that because Mr M was using his credit card, it thought he had changed his mind about closing his account. It wrote to him saying this. But again he never received the letter.

I can see that Mr M called MBNA again in March 2014. He told the bank he was in financial difficulty. MBNA froze the interest and charges on his account. Mr M couldn't make any repayments. MBNA told him it would record this on his credit file.

I've seen nothing to show that MBNA knew Mr M was in financial difficulties before he told it in March 2014. I'm satisfied that the bank treated him positively and sympathetically once it knew of his situation.

Mr M is unhappy that MBNA didn't close his account in October 2013. But there was always an outstanding balance on it. It is unfortunate that MBNA had the wrong address for Mr M and he didn't receive the letters it sent.

But in any event, it was his choice to carry on using his card. Mr M could have destroyed it at any time – especially as his family were trying to clear his gambling debts for him. He didn't have to be told by MBNA to stop using it.

Mr M says that MBNA has breached various sections of the Consumer Credit Act 1974. But that is something a court, not me, would need to decide. In the circumstances, I'm satisfied MBNA is entitled to ask Mr M to repay the outstanding credit card balance.

I do sympathise with the situation that Mr M is in. I understand he is receiving help and support for his gambling problem. I would remind MBNA to treat Mr M positively and sympathetically while he has financial difficulties.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 October 2015.

John Miles
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