

## **complaint**

Mr M complains that Moneybarn No. 1 Limited didn't provide him with the information he needed to make an informed decision regarding a change to his conditional sale agreement. He says he has been financially disadvantaged due to the actions taken.

## **background**

Mr M entered into a conditional sale agreement with Moneybarn in 2017 to acquire a vehicle. Following acquisition he was made redundant and fell behind with his payments. He says he was unable to make up the missed payments and Moneybarn offered him a change to his agreement. He says he was told this would mean that if he didn't make his agreed payments then the vehicle would be taken back without having to go through court proceedings. He agreed as he thought he would be able to make his payments.

However Mr M wasn't able to make the payments so he requested to voluntarily surrender the vehicle. He says that he was told he would be liable for the full five year term balance less the amount already paid and sale proceeds. He says that when he explained he only had the vehicle for 18 months he was told the reason he owed the full amount was due to the change in his agreement. He says he was not told about this when he agreed to the change and had been he would have returned the vehicle at that time.

Following his complaint, Mr M says that he has only received two letters one saying he could refer his case to this service. He says he has emailed Moneybarn since but not heard back

Moneybarn says that Mr M fell behind with his payments and after attempts to contact him had been unsuccessful a default notice was issued on 17 January 2018. It says further attempts were made to contact Mr M but as no response had been received by the required date his agreement was terminated on 7 February 2018.

On 8 February, contact was made with Mr M and the option of him retaining the vehicle though a consent order was discussed. After confirmation of Mr M's employment and salary this option was submitted to the courts. A consent order was put in place in which Mr M agreed to make certain scheduled payments.

In August 2018, Moneybarn says the Mr M contacted it to say he couldn't afford to make the required payments and he wished to voluntarily terminate his agreement. However it says that as the agreement had been terminated by this time this wasn't an option.

Our adjudicator didn't uphold this complaint. She said that the agreement had been terminated in February 2018 and so Mr M no longer had the right to voluntary termination. She said that the information provided to Mr M was correct and didn't think Moneybarn had treated him unfairly.

Mr M didn't accept our adjudicator's view. He said that the consent order didn't supersede the conditions of the original agreement. He said that he only accepted the consent order because he was told that the only change would be the vehicle could be recovered without further court action if the agreed payments weren't made. He said he wasn't told he would be liable for interest for the full term of the agreement.

Mr M also said that he had numerous charges added to his account after collection which he had tried to avoid by offering to drop the vehicle off. He says he was told the vehicle would

be collected free of charge but charges were then applied. He said this issue hadn't been addressed.

### **my findings**

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

Mr M has said that he was offered a voluntary change to his agreement but not provided with full information at this time and so agreed to this without understanding the consequences. Having looked through the evidence provided, Mr M wasn't offered a change to his agreement but instead a consent order was put in place.

Mr M had not been able to maintain his payments under his agreement and following attempts at contact a default notice was issued in January 2018. Given the arrears on his account and that Moneybarn hadn't been able to discuss this situation with Mr M I don't find it unreasonable that this action was taken.

The default notice set out what Mr M needed to do and what would happen if he didn't make the required payment. The payment wasn't made and so his agreement was terminated. Mr M was sent a termination notice on 7 February explaining the situation and saying that the vehicle needed to be returned.

Had Mr M been in contact with Moneybarn before the agreement was terminated then he would have been able to discuss his options at that time. Given Mr M's situation we would have expected Moneybarn to treat him positively and sympathetically. However, as contact hadn't been made I find it reasonable that Moneybarn took the actions it did and Mr M's agreement was terminated.

As Mr M's agreement had been terminated it would normally be expected that the vehicle would be collected and sold. However, in this case it was agreed that Mr M could keep the vehicle and a consent order was put in place to allow for this. I have listened to calls that took place in February 2018 in which Mr M agrees to the consent order and pays the amount due for this action to commence.

I cannot comment on the details of the consent order but I can consider whether Moneybarn treated Mr M fairly at the time this was being put in place and whether he was given the information he needed.

Based on the evidence I have received I find it reasonable to accept that Mr M did want to enter into the consent order so that he could continue to use the vehicle. Had he not entered into this he would have been required to return the vehicle. He would not have had the option to voluntarily terminate the agreement as the agreement had already been terminated. Therefore he would have voluntarily surrendered the vehicle and would have been liable for the outstanding balance on his agreement less any sales proceeds. This is the same situation he was in following his decision to return the vehicle after entering into the consent order.

Mr M's complaint is that he is now liable for the full amount of interest on the agreement even though he no longer has the vehicle. I think it helpful to clarify Mr M's situation. It is correct that Mr M is liable for the full amount outstanding less the sales proceeds and that this can be repaid monthly until such time as the balance has been cleared. This is because

although he no longer has the vehicle the finance hasn't been settled. If Mr M chooses to settle the finance agreement early he could request an early settlement figure from Moneybarn and this would provide him with the amount he would need to pay to settle the account. This amount would include an interest rebate calculated in line with the early settlement regulations.

Mr M also says he was charged for the recovery of the vehicle when he was told this would be free of charge. I have looked at the statement of account and can't see any charges for the recovery of the vehicle when this took place in September 2018. There is a charge for a recovery agent in February 2018. I have asked about this charge and Moneybarn has confirmed that this was charged as agents had already been instructed at that time but the recovery didn't then take place due to the consent order being agreed. I note that the issue of agents being instructed and then put on hold was mentioned to Mr M on a call at that time and that this amount was included in the consent order. .

Overall, while I understand Mr M's concerns, I do not find that Moneybarn has done anything wrong in regard to his account. Therefore I do not uphold this complaint.

### **my final decision**

My final decision is that I do not 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 17 November 2019.

Jane Archer  
**ombudsman**