

complaint

Miss H complains Lending Stream LLC lent her money she couldn't afford to repay.

background

Miss H took out two instalment loans with Lending Stream:

date taken	amount	instalments	highest monthly payment	Date repaid
11 March 2012	£100	5	£63.25	20 April 2012
5 May 2012	£765	6	£382.50	28 June 2013

Before we became involved, Lending Stream offered to refund interest and charges on the first loan.

Our adjudicator recommended that Miss H's complaint be upheld in part. He didn't think Lending Stream had done enough to assess affordability before agreeing either loan.

Our adjudicator said if Lending Stream had asked more questions, it would've seen that Miss H couldn't afford the first loan. But he thought it likely she could afford the second loan.

Our adjudicator asked Lending Stream to refund any interest and charges that it applied to the first loan. And remove any adverse references to this loan from Miss H's credit file.

Lending Stream agrees to our adjudicator's recommendation but Miss H isn't happy. She says her main concern is with the amount of interest and charges that Lending Stream added to the second loan. Miss H says the lender wasn't helpful when she asked for help and an explanation of why she owed so much money.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I agree with the conclusions of our adjudicator.

Lending Stream was required to lend responsibly. It needed to check whether Miss H could afford to pay each loan back before it lent to her. There wasn't a set list of checks that Lending Stream had to carry out. But the checks had to be proportionate to things such as the amount borrowed, the length of the agreement and any borrowing history.

first loan

As Lending Stream already agrees to refund interest and charges on the first loan, I don't intend saying anything further about this loan, other than I agree it should also pay interest on the refund and remove any adverse references about the loan from Miss H's credit file.

second loan

From what Miss H has told us, her main concern is about the second loan. She's very unhappy with the amount of interest and charges on this loan. Miss H also says Lending Stream didn't help her when she explained she was in financial difficulties.

Our adjudicator replied to Miss H and I agree with what he said. When Miss H took out the second loan, she agreed to the terms including how much interest Lending Stream would charge. I can't find Lending Stream made a mistake when it applied the relevant interest and charges to the outstanding loan.

I'm satisfied Lending Stream responded reasonably when Miss H told it about her financial difficulties. It sent her an income and expenditure form to complete and return. Miss H thinks she completed this form but Lending Stream says it never received it.

Our adjudicator didn't think Lending Stream did enough checks before it agreed this loan. The credit check it carried out showed Miss H had three delinquent loans. Our adjudicator felt Lending Stream should've noticed this and queried why Miss H wasn't able to keep up with other repayments despite having £1,500 of disposable income.

However, even if Lending Stream had asked about all of Miss H's financial commitments, including any short term loans, I'm not persuaded it would've decided not to lend in May 2012. I've had a look at Miss H's bank statement for May 2012. Her regular outgoings including some short term loan repayments, amount to just over £650. She earned £2,266 in May 2012 so it would've appeared Miss H had enough disposable income to afford the second loan repayments.

Miss H spent more than £300 online gambling in May 2012 but I can't be sure Lending Stream would've found out about this even if it had asked Miss H more questions, as I wouldn't necessarily have expected it to look at her bank statements.

Our adjudicator did ask Miss H whether she could give us more information about any other outgoings that don't appear on her bank statement. But Miss H hasn't replied. Based on the evidence I have, I don't consider Lending Stream was irresponsible to agree the second loan Miss H.

my final decision

I uphold this complaint in part. In full and final settlement I require Lending Stream LLC to do the following:

- Refund any interest and charges Miss H has paid on the first loan
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*

- Remove from Miss H's credit file, any adverse information about the first loan and any records of searches it's done since Miss H complained

*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Miss H a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 5 June 2017.

Gemma Bowen
ombudsman