

complaint

Mrs L complains that BMW Financial Services(GB) Limited (the business) has treated her badly. She complains it wrongly issued her with default notices and late payment letters and terminated her hire purchase agreement (HPA).

background

Mrs L entered into a HPA with the business in December 2012 to acquire a car. She says that in June 2013 the business accused her of renting out the car which she proved was not true.

She says that she has always maintained fully comprehensive insurance on the car. She says that in 2015 she was not using the car much and a friend wished to use it. She says that she ensured he was fully insured and was told by his insurance company that he needed to be named on the car's registration documents. Mrs L says she added her friend as an additional name. Mrs L says that at no time was she not the registered keeper of the car.

Mrs L says that her HPA was terminated even though the business had not proved she was in breach of the agreement. She says her credit file has been adversely affected by the business' actions due to late payment markers and a default being recorded.

The business says that it carried out a check and realised the car was insured and registered in the name of a business and not in Mrs L's name. Due to the breach the HPA was terminated. However in July 2013 the HPA was reactivated following receipt of information that the car was registered and insured in Mrs L's name.

In July 2015, the business says internal checks highlighted that the car was registered to another person. It sent a default notice in July 2015 and says it worked with Mrs L to try to remedy the breach. However it says it did not receive a valid insurance certificate and so a termination notice was sent to Mrs L and the HPA was terminated in September 2015. A default was recorded on Mrs L's credit file.

The business says that Mrs L continued to make her monthly payments to the solicitors and it explained that these payments would be offset against the outstanding liability on the terminated HPA.

The adjudicator said that the business was allowed to terminate the HPA and report the account as in default if there was a breach to the conditions. He said that in July 2015, the business found the agreement was registered in a different name to Mrs L's which represented a breach to the HPA conditions. He said that although the business provided Mrs L until August 2015 to remedy this breach as she did not provide a valid insurance certificate by that time it terminated the HPA. Based on this he did not find that the business had done anything wrong.

He said that Mrs L's credit file provided a true reflection of what happened with her account.

Mrs L said that the HPA was never in default and that the car was insured. She said that there was nothing in the conditions to say another person could not be added, alongside herself, to the registration documents.

my findings

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

I have looked at the terms and conditions of the HPA. These set out that Mrs L was required to keep the car under her possession and control and not allow anyone else to become registered as the car's registered keeper. The business found that the car was registered in another person's name. I understand Mrs L's comments that she added a friend as an additional name, however I find that the terms are clear that no one else should be registered as the registered keeper. I appreciate that Mrs L says she changed this back to her name after contact from the business.

The business has said that it worked with Mrs L to try to remedy the situation but because it was not in receipt of a valid insurance certificate the HPA was terminated in September 2015. I understand that Mrs L was in contact with the business at this time. Given a previous breach had been remedied I find it reasonable to consider that Mrs L was aware of what would happen if action was not taken.

I have looked at the insurance information Mrs L has provided and can see that she has provided a copy of an insurance certificate for the car in her name dated 9 September 2015. I understand her comments about insurance having been maintained and the process she went through after receiving notification of the breach to insure the car in her name.

The HPA terms and conditions set out the "you" must maintain fully comprehensive insurance. In this case "you" refers to Mrs L. While I understand Mrs L had insurance through another entity, I find it reasonable that the business required the insurance to be maintained in Mrs L's name. The breach was raised in July 2015 and I find that Mrs L was given time to address this before the HPA was terminated. While I can see she had insurance in her name on 9 September 2015, this was too late for the termination of the HPA to be avoided.

On balance I do not find that the business did anything wrong by terminating Mrs L's HPA.

The letter the business sent Mrs L in July 2015 stating she was in breach of the terms and conditions of her HPA clearly set out what would happen if Mrs L did not take the necessary action and included information about a default being applied to her credit file. Based on this I find that Mrs L had enough information to be aware of the consequences of not remedying the situation with her HPA.

Because of the termination of the HPA, the full balance on her account became due. Mrs L continued to make monthly repayments and the business explained these would be offset against the outstanding balance. I find this reasonable.

I have looked at the credit report provided by Mrs L and can see that this shows a default being applied to the account in September 2015 and the account as satisfied in February 2016. The balance is recorded as zero. I find that this provides a true reflection of Mrs L's account.

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 Mrs L to accept or reject my decision before 9 June 2016.

Jane Archer
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