

complaint

Mr V complains that Wave Lending Limited mis-sold a mortgage to him.

background

Mr V says that Wave mis-sold a buy-to-let mortgage to him and had irresponsible lending policies. He says it is common practice for lenders to consider the projected rental income in considering a buy-to-let application, but Wave considered and approved the mortgage on the basis of his personal income alone. This was not satisfactory to him.

He says that any checks on his income would have revealed that it was insufficient to cover the mortgage payments and the loan would not have been approved. The property was significantly over-valued, his income was insufficient to cover the monthly mortgage payments and the market rental was below the mortgage payment.

To resolve his complaint he wants any shortfall to be written off, his credit rating to be restored, and damages to be awarded.

In response to his complaint to Wave it said that it arranged mortgages through third party intermediaries, meaning that it did not give advice, or recommend products to any prospective customers. Mr V's mortgage was arranged through a broker.

In the application form Mr V and the broker had agreed that the information provided was accurate and true, and that Mr V had sufficient income to support the mortgage that he had applied for.

The mortgage application had contained a signed declaration saying:

"I/We confirm that the income amounts disclosed within this application are true and accurate and are sufficient to pay the monthly mortgage payments and future estimated payments stated within the Key Facts Illustration. I/We understand that a false declaration of the income will have a serious effect on our ability to regularly meet mortgage payments."

Upon receipt of the application Wave had carried out a valuation, verified Mr V's identity, and assessed the information provided including the rental income figures. Based on the information submitted by the broker, and confirmed as correct by Mr V, Wave had approved the application.

Following this Wave had forwarded a mortgage offer, key facts illustration, mortgage conditions and tariff of charges to the broker and to Mr V. The information provided by Wave had included details of the mortgage amount, the overall cost of the mortgage, the monthly payments, the current interest rates, the repayment basis and the early repayment charges.

Wave was not responsible for the sale of the mortgage or for any financial advice provided to Mr V during the sale process. This responsibility lay with the broker. As it appeared the broker was no longer trading, Mr V might be able to approach the Financial Services Compensation Scheme (FSCS).

Mr V then made an application to the FSCS in which he acknowledged that the points made by Wave were correct. He said:

“My most damaging mistakes were 1. Implicitly entrusting [broker] in 2006 with my investment of £240,000 for the acquisition of buy-to-let properties and 2. Signing blank mortgage application forms for [broker] ‘in the interest of expediency’ as he put it and ‘all you have to do is breathe’.”

However the FSCS was unable to help because buy-to-let mortgages were unregulated products.

Mr V then referred his complaint to this service. Our adjudicator did not recommend that it be upheld. The documents and literature showed that the rental income was factored in when considering Mr V's application for the buy-to-let mortgage. Although the rental income figure was lower than the monthly mortgage payment, Mr V's earned income was to be used to cover any shortfall in repayments. Mr V and the broker had signed to confirm this was correct.

In regard to mis-selling, the mortgage was sold by the broker and Wave was not responsible for this part of the complaint.

Mr V disagreed. He said the mortgage was not sold by the broker. The broker was a mortgage application company employed by another organisation to submit mortgage applications to lenders on behalf of the investors in 51 properties acquired by that organisation. The owner of the broker had closed it down. Both the valuation of the property and the expected rental income were overstated and whilst he accepted the principles adopted by Wave in its decision to lend, he would carry out more research into the valuations by the surveyors involved with all 51 properties.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

It seems to me likely that the “mortgage application company” mentioned by Mr V was a mortgage packager used by the broker to submit applications. Be that as it may, the underlying point is that Wave provided the lending and the broker was the party providing the advice. Indeed Mr V acknowledged that in his application to the FSCS.

The “buy to let – rental and earned income affordability calculation” and the “underwriters’ approval form” confirm that both rental and personal income were considered when Wave approved the application.

If the valuation of the property and the expected rental income were overstated in the mortgage application, that was not the fault of Wave.

For these reasons I do not consider that the complaints of mis-selling and irresponsible lending have been made out.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr V to accept or reject my decision before 21 September 2015.

Edward Callaghan
ombudsman