

complaint

Mr H complains he was pressurised by Instant Cash Loans Limited (Money Shop) into pawning items of gold in order to repay his payday loans. He says the goods were later sold at below value and without him being given notice of the intended sale. He wants compensation.

background

Mr H tells us that he pawned items of gold jewellery in July 2011. He says he was pressurised into this transaction by Money Shop's sales person in order to repay some outstanding payday loans. He states the gold was worth £2,500. Later he says the jewellery was sold for well below this value. And that he wasn't told that this sale would happen.

Money Shop told us that Mr H had pawned a necklace, a ring and a pair of earrings. It said that prior to pawning goods the process is explained to customers. And that it's entirely a matter for the individual customer if they accept the amount which is offered. It explained that "gold" rates vary on a daily basis. And that Mr H had agreed to pawn the items for a loan value of £1,200. It stated that the pledge was the subject of a secured loan and that Mr H's signed Fixed Sum Loan Agreement and Pawn Receipt regulated by the Consumer Credit Act 1974 states:

"IF YOU DO NOT REDEEM THE ARTICLE(S) ON OR BEFORE (EXPIRY DATE) YOU MAY LOSE YOUR RIGHT TO REDEEM IT (THEM)".

Money Shop explained that the loan should've been repaid by 13 February 2012. And when this didn't happen it said the items were sold. As the proceeds of sale (£1,113.32) didn't cover the loan, interest and selling costs (£2,413.27) there was no surplus to return to Mr H.

Our investigator didn't recommend the complaint should be upheld. She said that Mr H had been aware of the amount of the loan that Money Shop had been prepared to offer against the items of jewellery. And that she'd seen a note from Money Shop's file that in January 2012 Mr H had said he wouldn't be coming back for his items. She didn't think Money Shop had made any errors in relation to the pawn broking transaction and so she wouldn't be asking it to do anything further.

Mr H didn't agree with this outcome. As it's not been possible to resolve this complaint an ombudsman's been asked to make the final decision.

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'm sorry to see that Mr H has experienced financial difficulties over several years. And that's never an easy situation to handle. I'm also aware that he's made some complaints about various payday loans he was given. But I need to make clear that my decision relates solely to the issues arising from a pawn broking transaction that took place in July 2011. And that includes whether Money Shop acted fairly when it sold the items in 2015 after the loan against which the items were pawned wasn't repaid.

Where information is incomplete or contradictory - as some of it is here - I reach my conclusions on the balance of probabilities. That is, what I think is most likely to have happened in light of the available evidence and the wider surrounding circumstances.

I'm aware Mr H considers he was pressurised into pawning these items in order to repay some payday loans he had with Money Shop. But I've seen no information which would lead me to this conclusion. And I haven't seen anything that shows that on or around the date of the pawn agreement there were any such repayments.

The information with which I've been supplied indicates the pawn agreement is in the form of a fixed sum loan - in this case for £1,200 - which is repayable with interest after seven months. If the loan isn't repaid the pawnbroker is allowed to sell the items to try to recover the cost of the loan, interest and costs of selling.

Mr H has said the value of the pawned items was £2,500. But I've seen nothing to confirm this. And as Money Shop was only prepared to offer £1,200 against the items Mr H had the choice of whether to accept this sum or not. Whilst it doesn't affect my decision I did look to see what the price of gold was in 2011 and 2015. Bearing in mind the price fluctuates on a daily basis I saw that the highest price reached in 2011 was just under 50 % more than that achieved in 2015. I mention this only to illustrate that when items such as gold jewellery are pawned the value of goods can vary significantly between the start of the agreement and the date when items may come to be sold. Money Shop isn't responsible for these market variations.

The loan agreement makes clear that pledged items can be sold if the loan isn't repaid. And the contact notes show that Mr H was aware of the details as he's indicated he wasn't going back to the shop to reclaim them.

When the goods were sold I've seen that Mr H was sent the notice of sale which set out the proceeds obtained together with the outstanding sums due from the agreement and the cost of sale. The letter also indicated that he wouldn't be pursued for the shortfall. So I can't say he's sustained any financial loss as a result of the sale.

In summary, I find that Mr H knew the terms of the loan and that it was his choice to enter the finance agreement for that amount. He knew, or ought reasonably to have known, that if he didn't repay the loan the pledged items of jewellery would be sold. It would not be fair and reasonable to say that Money Shop hadn't acted fairly in relation to this pawn broking agreement. Accordingly I'm not upholding this complaint.

my final decision

For the reasons given above my final decision is I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 30 April 2020.

Stephen D Ross
ombudsman