

## **complaint**

Mrs A complains that MBNA Limited will not accept a payment from her of £269.50 in full and final settlement of her debt of £5,117.20. Mrs A says that MBNA did not tell her that it was not prepared to use the cheque to clear her loan when it cashed it. This meant that she thought MBNA had accepted her offer.

## **background**

Mrs A wrote to MBNA in late 2011. She enclosed a cheque, and told it that the payment was in full and final settlement of her outstanding debt as it was all she could afford. MBNA cashed the cheque but did not reply to Mrs A's letter. It later chased her for repayment of the balance.

The adjudicator did not recommend that the complaint should be upheld. She considered that MBNA and Mrs A had not reached any agreement that a partial payment of £269.50 would settle the outstanding debt. This meant that even though Mrs A had told MBNA that her payment was in full and final settlement of the debt, MBNA had not acted unfairly or unreasonably in asking her to pay the amount which remains outstanding.

The adjudicator told Mrs A that MBNA was however prepared to refund her cheque in full and final settlement of her complaint.

Mrs A is not happy to accept the adjudicator's recommendation. She says that MBNA ignored her letter, and it should have told her that it was not prepared to accept the cheque in full and final settlement of the debt. Mrs A will not accept MBNA's offer of a refund of her cheque.

## **my findings**

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

I am very sorry for the difficult financial circumstances that Mrs A is in.

Mrs A had not reached an agreement with MBNA that it was prepared to accept £269.80 in respect of her outstanding balance. I do not therefore find that it should be required to agree to this partial repayment in satisfaction of the full debt. This is despite the fact that Mrs A wrote on the back of the cheque, and in the covering letter, that she was making the payment on the understanding that it was intended to pay off her total debt.

I do not find that MBNA accepted the debt had been fully paid off when it cashed Mrs A's cheque. Instead the payment reduced the amount owed by Mrs A.

I note Mrs A's argument that MBNA did not reply to her letter which led her to understand that it had accepted her offer. I appreciate this, but I am not persuaded that MBNA's failure to reply means that it cannot pursue Mrs A for the outstanding balance. As I have pointed out, no agreement had been reached with MBNA that it would accept the cheque in settlement of her debt.

I note that MBNA has offered to refund the cheque in settlement of this complaint, but Mrs A is not prepared to accept this.

**my final decision**

My decision is that I do not uphold this complaint.

Rosemary Lloyd  
**ombudsman**