

The complaint

Miss B complains that STARTLINE MOTOR FINANCE LIMITED (“Startline”) misrepresented her options when she sought to end a finance agreement with them.

What happened

Miss B took receipt of a used car in April 2021. She financed the deal through a hire purchase agreement with Startline.

In July 2023 Miss B called Startline and explained she was having difficulties making payments. She asked what her options were to release her from the agreement. Startline explained that she could either Voluntarily Terminate (VT) or Voluntarily Surrender (VS). They explained that under VS Miss B may be charged for any repairs necessary to return the car to a good condition. Miss B was reluctant to pursue VT as she explained there was a 10cm crack on the windscreen. Startline explained that under VS the car would be sold, and the funds would be used to offset the amount owed, which was then £9,808. Miss B was keen to ensure the car wouldn't be sold for any value and asked if, for example, the car would be sold for as low as £8,000. She was told it wouldn't be. Miss B says that the VS was, therefore, misrepresented to her as she was given a false statement of fact. She says the suggestion that the car wouldn't be sold for as little as £8k was a false statement as Startline eventually accepted £7,900 at auction. She says if she'd not been given that false statement she wouldn't have proceeded with the VS and that she would have borrowed money from elsewhere or have sold the car herself.

Our investigator didn't think Miss B had been disadvantaged but Miss B disagreed. So, her complaint has been referred to me, an ombudsman, for a final decision.

What I've decided – and why

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

I know it will disappoint Miss B, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Miss B acquired her car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

In simple terms a misrepresentation is an untrue statement of existing fact or law made by one party to another party that induced that party to enter into a contract. Miss B says there

was such a misrepresentation here as she wouldn't have entered into an agreement to VS if she wasn't told the car wouldn't be sold for as little as £8,000. I'm not persuaded that was a misrepresentation. I say that because I think the statement could only fairly be considered to have been a statement of *opinion* by Startline's representative. The representative had already explained to Miss B that these things were handled by the recoveries team so I don't think it would be fair to suggest the representative would have a detailed knowledge and, having listened to the call, I think the agent was doing their best to explain how these things worked and trying to explain that the recoveries team would try to get a reasonable price for the vehicle.

And even if I'm wrong about the representative not having misrepresented the agreement to Miss B, I don't think the evidence suggests it would have been likely to have induced Miss B to enter into the agreement to VS. I say that because I'm not persuaded that other options were more advantageous to her.

VT would have required Miss B to pay damage charges highlighted in any inspection of the car that would have taken place. Miss B explained on the July 2023 call that she didn't feel that was the best option. She also explained that there was some damage to the car, and I think that, and the fact the car appears to have sold for a little less than may have been expected, would suggest that there would have been refurbishment charges levied and that VT was unlikely to have been the best option, or one that Miss B was likely to have chosen if it were not for the alleged misrepresentation.

Miss B also says she would have sold the car herself if it hadn't been for that alleged misrepresentation. I'm not persuaded that would have been likely either. The car wasn't Miss B's to sell although I accept that Startline may have been prepared to allow that. Miss B suggests she had quotes to pay £10,000 for the car. But I've not seen that they were guaranteed offers based on a physical inspection of the vehicle, and that could have been accepted at the time Miss B wished to be released from her contractual obligations. I'm not, therefore persuaded that Miss B would have been likely to chose to sell the car herself if it were not for the alleged misrepresentation.

Miss B has also suggested that she would have taken out a personal loan or obtained one from a family member, had it not been for the alleged misrepresentation. I've not seen evidence that either of those options were feasible at the time, and Miss B doesn't appear to have used those avenues to reduce the arrears that remain on the account and that continue to adversely affect her credit rating. I'm not persuaded that it's likely she would have chosen one of those options, or any other option, had it not been for the alleged misrepresentation, and I don't, therefore, think Startline need to take any action in that respect.

With regard to the information Startline have reported to Miss B's credit file. Miss B was two payments in arrears when she contacted Startline in July 2023 and thereafter payments weren't received. I can see that in June of this year, after the sales proceeds were debited, the balance on the account was a little over £2,000. I can't say Startline have been unfair to report adverse information to Miss B's credit file in those circumstances, there's no argument that payments weren't received, and Miss B wasn't told to stop paying while the car was sold. Startline have an obligation to report activity on Miss B's account accurately to the credit reference agencies and I think they've done that.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 12 August 2024.

Phillip McMahon
Ombudsman