

## The complaint

Mr S complains that Topaz Finance Limited trading as Hyalite Mortgages failed to set up a direct debit ("DD") correctly that meant that his monthly payment wasn't collected causing the account to go into arrears.

## What happened

Mr S has a mortgage with Hyalite. The contractual monthly payments ("CMPs") are to be paid through the DD system. But Mr S's original DD was cancelled in December 2022. Mr S's bank says the reason was "*refer to payer*". On 30 June 2023, Mr S set up a new DD to start from 28 July. The DD was cancelled by Mr S's bank and Hyalite issued a new DD form to Mr S which was returned on 14 July. Hyalite says it set this up but the DD set up for 28 July was rejected by Mr S's bank. Mr S's bank says that the reference used by Hyalite is for a cancelled instruction, there has been no mandate received for a fresh mandate and that an attempt to take payment was made on 31 July but was returned with message "*instruction cancelled*".

Our investigator didn't recommend that this complaint should be upheld. She said that the evidence showed that two attempts were made by Hyalite to set up a new DD with Mr S's bank and the bank rejected them. She believed that as Mr S's mortgage number wouldn't change, that Hyalite was using the correct reference for the DD and believed that Mr S's bank failed to recognise that Hyalite was setting up a new DD rather than attempting to collect payments under the old DD. Mr S disagreed saying that the failure lay with Hyalite and not his bank.

## 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.

There seems to be two parts of the complaint. Firstly, is Hyalite responsible for the failure to set up the DD correctly to collect the July CMP and secondly did this failure cause Mr S to miss a monthly payment causing damage to his credit file.

In respect of the first issue, Mr S had a DD in the past which was cancelled and wanted to set up a new DD with Hyalite to start taking payments on 28 July 2023. But that didn't happen. Hyalite says that it set it up but his bank says that the DD reference that Mr S quoted was cancelled in December 2022 and is not active. Hyalite says that it reinstated the DD and the DD is live on its system but no payment has been made and suspects it's a problem with Mr S's bank. Mr S suspects it's because Hyalite is using the same reference as the cancelled DD and should be using a different reference number. Hyalite says that the reference number is the mortgage account number it should use and is correct in using it to distinguish Mr S's account.

On looking at the reference that was submitted by Hyalite to Mr S's bank, it appears to be composed of two sets of numbers. The first set is referred to as "*Funder Pool ID*" which I assume is the bank reference under the DD system and seems to be the distinguishing

number for Hyalite, the second set of numbers is the mortgage account number. Hyalite says that this is the correct procedure to follow. That, as Mr S says, suggests that this would be the same reference as the previous cancelled reference but presumably the date on the mandate would indicate to the paying bank that this is a new rather than a cancelled mandate.

On the evidence Hyalite has produced it seems to have followed its procedure for installing DD mandates. Mr S guesses why his bank refused to accept it - that Hyalite wasn't using a reference number to distinguish it from the previous DD - but I've nothing from Mr S's bank to confirm that was the reason the DD was refused payment and that Hyalite was operating the DD system incorrectly. In that event I can't fairly say that Hyalite was responsible for the failure to collect the CMP though the DD system and I can't fairly uphold that part of the complaint.

In any event the significant issue in this complaint is whether problems with setting up the DD, whoever was at fault, led to Mr S missing a CMP and the effect of that on his credit file? Mr S hasn't always relied on the DD system to pay his CMP. He has made payment by other means on many occasions previously. From the file notes it's clear that by 29 July, Mr S was aware that the DD hadn't gone through for the month, so he could have made his payment then by card as he did on several other occasions. But there is no payment then and the next payment I can see on the account is made by card of less than the CMP for August on 31 August and the remainder for August on 1 September. But it's clear that July's payment was missed. Mr S was aware that the DD had not collected his payment and didn't make the payment by other means. As Mr S had missed a payment, I don't consider that Hyalite was at fault for recording it as such and I can't fairly uphold this complaint.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the s of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 May 2024.

Gerard McManus  
**Ombudsman**