

complaint

Mr J complains that Lowell Portfolio I Ltd has obtained a County Court Judgment (CCJ) against him and has unfairly appointed agents to recover a debt that he doesn't owe.

background

Mr J had an account with a lender that was purchased by Lowell in 2015 after he fell behind with payments. Lowell and various agents it appointed wrote to Mr J seeking repayment of what was outstanding, but never received any replies. So it took legal action to recover the debt. Lowell obtained a County Court Judgment in 2018 which outlined what Mr J owed.

Mr J wasn't happy about this and said that he didn't owe this money. He felt that Lowell hadn't complied with a previous final decision that this service had reached and hadn't treated him fairly because of his health conditions.

Our investigator looked into his complaint and didn't feel we had the ability to consider it, because there was a CCJ that ruled on what was owed. Mr J didn't agree, so the complaint was passed to me. I explained to Mr J and Lowell why I felt that we could consider this complaint, as although there had been court action, there were parts of the complaint I felt our service could investigate.

Lowell had nothing to add, but Mr J responded to explain why he still felt that Lowell was acting unfairly. So the complaint was passed to me to reach a final decision on the merits.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not upholding Mr J's complaint. I'll explain why.

This service doesn't have the power to remove, or set aside a legal judgment like a CCJ. Mr J strongly feels he doesn't owe the debt here, but a court (as a higher authority than this service) has decided that he does. As that's the case I won't be reaching any further findings on this part of Mr J's complaint. If Mr J continues to feel that the CCJ is unfair and incorrect, he can take legal advice on this.

But the court didn't consider the parts of Mr J's dispute with Lowell about how it's treated his financial difficulties and health conditions. So I've considered this.

Mr J says he felt harassed by how Lowell has chosen to seek repayment of the debt. Lowell has confirmed it's only ever written to Mr J because it only holds postal address details for him. The letters companies like Lowell send can be strongly worded, but that's because they have to let customers know the consequences of failing to make payments. I haven't seen anything that suggests Lowell has acted unfairly here in how it communicated with Mr J.

Lowell and the subsequent agents who pursued the debt on its behalf didn't receive any payments, or communication from Mr J. Nor can I see that they were made aware of the medical problems Mr J has told us about. So I can't see how it could've done anything to try and change how it was dealing with Mr J while pursuing the debt.

Because of the lack of communication and payment on the debt, the decision was taken to seek the CCJ on the debt, which isn't something I can say was unreasonable here – it's something Lowell is entitled to do. And, as I've already explained, now a court has reached a judgment, it's not for this service to interfere with this.

Mr J has also said that Lowell hasn't followed the directions of a previous final decision we reached against it. While I've explained to Mr J why I think it has, this also isn't something I can consider as a part of this particular decision. So overall here, there's nothing I can tell Lowell to do.

The account is now with an agent that's managing the debt on behalf of Lowell. I'd expect Lowell, or any agent it may appoint, to discuss the options that are open to Mr J in making payments so he can comply with the court order. But Mr J will need to enter into a dialogue with these agents so they can see what they can do to help and treat him positively and sympathetically.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 20 September 2018.

James Staples
ombudsman