

complaint

Ms S complains that Amigo Loans Ltd failed to notify the court that she settled her account which resulted in a charging order being placed on her property.

background

In 2014 Amigo Loans obtained a county court judgment against Ms S in respect of a loan which she had guaranteed. Ms S was ordered to pay the judgment debt at £30 per month.

Amigo applied to the court for a charging order to secure the debt and an interim charging order was made in January 2017. Ms S settled the judgment debt in full in February 2017.

The court subsequently made a final charging order in March 2017. Ms S says that Amigo should have contacted the court to let it know that the debt had been paid. Amigo says that it sent a letter to the court and to the land registry advising that the account was settled.

The final charging order has now been removed. Ms S remains unhappy because she doesn't think that Amigo took reasonable steps to let the court know that the account had been settled. She also complains that she felt forced into taking out a new loan to pay Amigo.

The investigator did not uphold the complaint. She said that Amigo had sent a letter to the court, and that it hadn't acted unreasonably in taking steps to obtain the charging order.

Ms S did not agree. She doesn't accept that Amigo sent an email to her about an increased repayment amount before it took enforcement action and she doesn't accept that Amigo sent a letter to the court advising that the debt had been paid.

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've looked at copies of the letters which Amigo says it sent to the court advising that the debt had been settled. There are also letters to the land registry and to Ms S. All three letters were generated on 21 February 2017 and Amigo say that they were posted on that day. This is the same date that Ms S's payment to settle the account cleared.

Ms S has suggested that the letter to the court was generated by Amigo at a later date. But there's no evidence to suggest that this happened. On balance, I find it more likely than not that Amigo generated all three letters on 21 February 2017 and posted them that day.

It's not clear why the letter to the court wasn't processed before the hearing of the final charging order. It's possible that it got lost in the post. Or it may have been lost by the court. Whatever happened to the letter, I don't think it's fair to hold Amigo responsible for matters which are beyond its control.

I don't know whether Ms S attended the court hearing in March 2017. A charging order is a serious matter and I would've expected both parties to attend the hearing. If that had happened, the judge could have been told that the account had been settled and the final charging order wouldn't have been made.

Ms S says that she felt forced into taking a new loan to pay Amigo. I can see that Ms S offered to increase her payments when Amigo first indicated that it would be seeking a charging order. And she sent an income and expenditure form to Amigo. Amigo sent an email to Ms S asking her to enter into an increased repayment arrangement but it didn't receive a reply so it applied for the charging order. Ms S says she never received the email.

The email was sent to the same email address as all other emails to Ms S and it's clear that these other emails had been received. So on balance, I'm satisfied that Ms S received the email about the increased repayment arrangement.

Taking all of the circumstances of this case into account, I don't think Amigo acted unreasonably in taking the steps it did to recover the debt. I'm satisfied that Amigo tried to agree an increased repayment arrangement with Ms S before it applied for a charging order. And I'm satisfied that Amigo sent a letter to the court advising that the debt had been settled.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 18 September 2017.

Emma Davy
ombudsman