

complaint

Miss B complains Hoist Finance UK Limited (Hoist), has pursued her for a debt which she has paid.

background

In May 2019, Miss B was contacted by Hoist about an outstanding debt it said she owed. Miss B complained to Hoist and said she didn't recognise the debt but that it should have been included as part of an Administration Order.

In 2010, Miss B said she'd agreed to an Administrative order to pay £10 per week to clear the debts listed in the order. And in May 2016 she said she'd received confirmation from HM Courts and Tribunal Service (HMCTS) that her Administration Order had been paid in full.

Hoist confirmed the debt was Miss B's but said that no payments had been made towards it. And said after Miss B had sent her court papers it had put on hold its debt collection activity. But Miss B said she was still being chased to pay the debt.

Miss B referred her complaint to us.

Our investigator was satisfied that the debt had been part of the Administration Order, and that it had been settled. She advised Hoist to check with the court to locate Miss B's payments. She also asked Hoist to pay £100 for the trouble and upset Miss B had experienced.

But Hoist didn't agree. It said as the debt was Miss B's; it couldn't be held responsible for attempting to collect the debt in the absence of documentation. And when Miss B had sent her documents, in May 2019, to show she had discharged her liability it had stopped its debt collecting activities.

Hoist has asked for an ombudsman to decide.

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 upholding this complaint and I'll explain why.

This service's role isn't to punish businesses when things have gone wrong. Instead it's to look at the impact of what's happened and, where possible, decide on what should happen to put things right. In reaching my decision I've considered what's gone wrong and how that's impacted Miss B and what was done by both parties to lessen the impact of that trouble and upset.

For Miss B, receiving letters about payments for debts which she had settled must have been very upsetting.

I understand confusion can arise when debts are transferred and/or when considering what's owed at a specific time and whether payments were made. And for this debt it's understandable why Miss B didn't at first recognise it because of the various businesses' involved in the debt and its recovery.

But Miss B knew she had listed her debts when she went to court in 2010, and that these had been settled. She explained this to Hoist. And I think Hoist had a responsibility to ensure that the data it had was accurate and should have taken reasonable steps to ensure that only the actual debtor and valid debts were pursued for repayment.

CONC 7.5.3 says:

“A firm must not ignore or disregard a customer’s claim that a debt has been settled or is disputed and must not continue to make demands for payment without providing clear justification and/or evidence as to why the customer’s claim is not valid.”

Our investigator said Hoist should check with HMCTS. And when it did it was confirmed that the court had allocated the wrong reference number, so Miss B’s payments weren’t attributed to her account.

I accept the initial fault wasn’t made by Hoist. But when Miss B said she had settled her account Hoist should have checked this information without the need for Miss B to bring her complaint to us.

Hoist has now accepted Miss B’s debt has been settled and won’t be pursuing her further. I’ve not been made aware of any adverse information having been added to Miss B’s credit file, so I’ve not made any recommendation about this. But the situation has caused Miss B a considerable amount of trouble and upset.

And despite Hoist saying it had stopped its debt collecting activity in May 2019. I can see that in June 2019 when sending Miss B a copy statement for her account its letter said:

“If you are not already making payment towards your account, please forward your affordable payment proposals to us. We have placed your account on hold for the next 14 days to enable you to do this, after which time collection activity will resume on your account.”

And in July 2019, this hold was lifted and a further request for payment was made. Also in August 2019, Hoist sent Miss B a copy of its court order that showed it had been given authority to pursue outstanding debts. All of which would have added to Miss B’s concerns about a debt she’d settled some years before.

I think it must have been a difficult choice for Miss B to make in agreeing to an Administrative Order, as it has consequences. So, to do this, and then find yourself some years later being pursued for a debt you believed had been cleared, must have been upsetting. And Hoist added to this distress by continuing to send her letters asking for payment.

So, overall, and for the above reasons, I agree with our investigator that Miss B has settled the debt. And that Hoist should pay Miss B £100 compensation for the trouble and upset it has caused her.

my final decision

I uphold this complaint and require Hoist Finance UK Limited to pay Miss B £100 for trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 25 October 2019.

Anne Scarr
ombudsman