

complaint

Mrs T, represented by Mr T, complains that Hoist Portfolio Holding 2 Limited (the business) is chasing her for repayment of a debt that she has already settled.

background

Mrs T received a county court claim in June 2015. She says she was unaware of the debt the business was pursuing her for and requested documents to prove she owed the money. She says these documents were not provided. She says that if the debt had been assigned to the business she had not received any deed of assignment or notice of this. Mrs T says she wrote to the business on several occasions but did not receive a response for many months.

Mrs T says that the debt the business is pursuing her for relates to a loan that she had repaid to the original creditor.

The business says that it had no evidence that Mrs T had repaid the loan. It says that it acquired the debt in October 2014 and sent Mrs T a notice of assignment. Following Mrs T's complaint it says that it contacted the creditor it acquired the debt from and it confirmed that the debt had not been settled. It says that due to Mrs T's health issues it is not pursuing its claim through the courts.

The adjudicator explained that we could not make a decision about the enforceability of the loan and that this would be for a court to decide. He said that the information suggested Mrs T had paid off one loan in October 2008 and taken out a new one. He said that the loan statements provided did not show the loans as settled and that he had seen a copy of the notice of assignment which confirmed the business was the owner of the debt. He said that unless Mrs T could provide evidence that the balance had been repaid he could not say that the business was pursuing the debt incorrectly.

The adjudicator did say the Mrs T had not been provided with the service she should have as her letters had not been answered and it took several months for her complaint to be dealt with. He recommended that the business pay Mrs T £100 compensation for this.

The business agreed to the adjudicator's recommendation.

Mrs T did not accept that the only issues related to the poor service she had received. She said that the business had harassed her for a number of months causing her serious health issues.

my findings

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

Mrs T has provided a copy of a letter dated October 2008 which refers to a previous loan being repaid and a new loan being available. This letter notes that an amount has been paid into Mrs T's account. I have looked at the statements provided and these show a loan pay out in October 2008 for over £8,700. This links to the amount set out in Mrs T's letter. The letter also refers to a previous loan having been repaid. Further information has noted that the previous loan had over £11,000 outstanding.

Based on this information it appears that Mrs T took out a loan in October 2008 to repay a previous loan as well as source additional funds.

Mrs T says that she had repaid the loan to the original provided in March 2009. She has provided copies of large repayments made at that time. I have checked the statements provided and these record the payments Mrs T made.

Mrs T says that she thought the loan had been repaid in March 2009 however the statements show that payments were made towards the loan after this date. I find it reasonable to believe that if Mrs T thought the loan had been repaid she would not make further payments.

The business has contacted the previous debt owner and confirmed that the debt had not been settled and the balance outstanding. It has also provided information showing it is the owner of the debt.

On balance, based on the evidence, I do not find I have enough to say that the business has acted unreasonably by pursuing Mrs T for the outstanding debt.

The business did not respond to Mrs T's request for documents after it issued a county court claim against her. Mrs T contacted the business in June, August and December and did not receive a response. It was not until February 2016 that the business issued its final response. I find that Mrs T was caused undue upset by this delay and find that the £100 compensation recommended by the adjudicator and accepted by the business is reasonable.

Mrs T has said she is suffering health issues and the business has confirmed that due to this it is not pursuing the claim against her. I find this reasonable.

my final decision

My final decision is that Hoist Portfolio Holding 2 Limited should pay Mrs T £100 compensation, as it has agreed, in settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to Mr T, on behalf of Mrs T, to accept or reject my decision before 27 June 2016.

Jane Archer
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