

complaint

Mr P has complained that Kapama Limited has unfairly recorded defaults against his credit file.

background

Mr P had a debt with a third party. This was later passed to Kapama. Mr P has complained that:

- he never owed money to Kapama (or its debt collectors);
- two defaults have been recorded against his credit file; and
- he was never sent a default notice and his account never defaulted.

Our adjudicator didn't recommend that the complaint should be upheld. This was because Kapama had removed the duplicate default from his credit file, and because she felt the recording of the other default had been fair. She was satisfied that Kapama had been entitled to take over the debt.

Mr P disagreed, and said he'd never received a default notice.

my findings

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

First, I'll explain why Kapama is involved. This is because the debt was transferred to it by the third party that Mr P initially had the debt with. This is common practice and is something both the third party and Kapama were entitled to do. This means Kapama now owns the debt and is entitled to seek payment of it (or instruct another company to do so on its behalf).

I can see that two defaults were recorded on Mr P's credit file. This was before Kapama owned the debt, but when it found out, it discovered that one recording was a duplicate. It asked the credit reference agency to remove the duplicate and I understand this was done. So I think Kapama acted correctly.

The outstanding issue is whether the first default should also be removed. I'm aware that Mr P set up repayment plans and settlement dates with the third party, before the debt was passed to Kapama. Because the repayments and settlements weren't made, the third party wrote to him (in a letter dated 26 March 2014) to explain that it would pass the account for collection – with a default balance – if payment wasn't made. As it wasn't, the default was registered in the March.

Lenders are not required to issue default notices before recording defaults on a credit file. That said, I think it's good practice and should ideally be done. But I don't think it would have made a difference in this case. This is because Mr P was aware he owed money and hadn't made the agreed repayments under the plan. The default is therefore an accurate reflection of the account at the time the default was registered. Because of this, I don't feel it should be removed.

my final decision

For the reasons given above, it's my final decision not to uphold this complaint. I make no award against Kapama Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 23 November 2015.

Elspeth Wood
ombudsman