

complaint

Mr S complained that two debts, for which MKDP LLP was pursuing him, were statute barred under the Limitation Act 1980.

background

Mr S had two accounts with a bank. These accounts defaulted and were sold to the debt recovery company MKDP. MKDP pursued Mr S for the debts. Mr S said the last payments or acknowledgements of the debt had been made over six years ago, so the debts were statute barred under the Limitation Act 1980. He claimed that MKDP was no longer able to take any action against him, and wanted the defaults removed from his credit file.

MKDP didn't agree. It said payments had been made to both accounts, and sent statements to Mr S showing the payments made in 2010. MKDP said this meant Mr S had acknowledged the debts in the last six years, so he was liable for the outstanding balances. MKDP acknowledged an error on Mr S's date of birth for one of the accounts, which it corrected. It also provided details of the bank's default notice for one of the accounts, which Mr S had requested.

Mr S wasn't satisfied and complained to this service. He said he'd never received default notices from the bank, or notices from the bank assigning the debts to MKDP. He said he'd never signed any agreement with MKDP. He didn't accept the bank statements showing the payments as evidence, so he claimed the debts were statute barred.

The adjudicator didn't agree. She sent Mr S copies of the letters which MKDP had sent to Mr S, telling him that ownership of the debts had been transferred to MKDP. She was also satisfied that the debts weren't statute barred, because of the payments Mr S had made in June 2010.

Mr S wasn't satisfied. He said the letters telling him about the assignment to MKDP had come from MKDP, not the bank, and said he hadn't received a default notice from the bank. The adjudicator explained that this service deems a notice of assignment provided by MKDP as adequate to show the debts had been sold on to it, and that Mr S had been properly notified. She also said MKDP wasn't obliged to keep originals, and that the copies of the letters were sufficient.

Mr S then provided details of his bank statements, saying there was nothing to show he'd made the payments to the debts in 2010. The adjudicator didn't consider this was proof that Mr S hadn't made the payments from some other account. She checked with the bank which had held the debts, and it confirmed the payments had come into Mr S's accounts by direct debit. It also said Mr S had been in a payment plan, with some payments being made by Mr S and some through the debt management plan. So the adjudicator still considered Mr S was liable for the debts. Mr S didn't accept this.

my findings

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

The statements from the bank clearly show that payments were made to both of Mr S's accounts in June 2010. I find it's acceptable that these statements are computer records –

the originals would, after all, have been sent to Mr S. I find that they are sufficient to show that Mr S made payments into the accounts within the last six years. This means that his debts are not statute barred under the Limitation Act 1980.

I have also considered Mr S's other arguments. I find that Barclays issued the default notices, and it's sufficient that these were sent – Mr S doesn't have to have signed to confirm he received them. I also find that the notices of assignment from MKDP were sufficient to inform Mr S that his debts had been transferred to the ownership of MKDP. And I don't consider the minor error with Mr S's date of birth on one of the accounts entitles him to have the default removed.

I am therefore not persuaded that Mr S's debts are statute barred, or that the defaults registered against him should be removed.

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 Mr S to accept or reject my decision before 22 March 2016.

Belinda Knight
ombudsman