

complaint

Mr H complains that 1st Credit Limited wrongly made him bankrupt when he was repaying his debt through a debt management company.

background

Mr H had difficulties repaying his debt to 1st Credit and he had been in a repayment plan that had failed. In August 2013 Mr H through a debt management company offered to repay the outstanding debt at £44.75 a month. 1st Credit told the debt management company that this was acceptable. Mr H paid the agreed amount through the debt management company. 1st Credit has said that this was an error and the amount wasn't acceptable. 1st Credit began bankruptcy proceedings against Mr H. These were later annulled but Mr H has incurred significant costs because of this.

Our adjudicator thought that the complaint should be upheld. She thought that 1st Credit had acted unfairly in making Mr H bankrupt when he was in a payment plan and it should've told Mr H's debt management company that the offer wasn't acceptable. 1st Credit didn't agree and responded to say in summary that it told Mr H about the bankruptcy proceedings and that the debt management company should take some responsibility for the costs because it allegedly told Mr H to ignore any letters from his creditors.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

It is accepted by 1st Credit that it agreed to the repayment plan in error and it did not tell either Mr H or his debt management company that the offer wasn't acceptable. Mr H and his debt management company thought that an agreed repayment plan was in place. Mr H was making payments in accordance with that plan and 1st Credit accepted those payments. 1st Credit then began the bankruptcy proceedings and I think that this was unfair in the circumstances.

The bankruptcy proceedings were sent by 1st Credit to Mr H directly and were not copied to his debt management company. For whatever reason, Mr H did not pass on those documents to the debt management company. 1st Credit says that this is because the debt management company told Mr H to ignore any letters from his creditors. It says that this is irresponsible advice and if the debt management company had been aware of the problem sooner the bankruptcy might have been avoided. I don't know what was said to Mr H by his debt management company about what he should do with letters from his creditors. But I don't think that either Mr H or his debt management company are to blame. I say this because it was 1st Credit's mistake to agree the repayment plan. It didn't correct that mistake with either Mr H or the debt management company before the bankruptcy proceedings were issued.

I think that the extra costs Mr H had to pay because of the bankruptcy were as a result of the mistakes of 1st Credit. I don't think it is fair or reasonable to expect Mr H to be out of pocket because of this. Mr H was inconvenienced and upset by the bankruptcy and I agree that £100 compensation is reasonable to reflect this. I can see that an overpayment that was remaining on Mr H's account has now been refunded.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it 1st Credit Limited must refund Mr H all the extra costs that were added to his debt because of the bankruptcy proceedings. 1st Credit should also pay Mr H £100 to reflect the upset and inconvenience caused by the bankruptcy.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr H to accept or reject my decision before 21 August 2015.

Emma Boothroyd
ombudsman