

complaint

Mr K complains about a loan advanced by Mini Credit. He says that the lending was irresponsible and that the interest and charges were too high.

background

Mr K entered into a loan agreement with Mini Credit in May 2014. He borrowed the sum of £220 which was due to be repaid by June 2014.

Mr K wasn't able to repay the loan and it was passed to Opos for recovery. In December 2014 the account balance was assigned to Kapama. The account balance at this time was £417.96.

When he initially complained to Kapama, Mr K said that the decision by Mini Credit to lend to him was irresponsible and that his credit file would have shown late payments and defaults in relation to other debts. Mr K also said that the interest and charges applied to the account were too high. He wanted these refunded and also wanted a default registered against his credit file to be removed.

When Mr K complained to this service his complaint was different. He said that he hadn't received the notice of default or the notice of assignment. He wants the loan written off and the default removed from his credit file. He also said that he believes that Mini Credit and Kapama are the same company.

Kapama says it didn't make the original lending decision but says it's been able to show that credit checks were carried out by Mini Credit before the loan was issued. It also says that it hasn't applied any charges to the outstanding balance. It says that Mini Credit would have issued the default notice. Kapama says that it sent the notice of assignment to Mr K at his registered address.

The adjudicator didn't uphold the complaint. She said that Mini Credit and Kapama were different companies. She also said that the account would have been defaulted by Mini Credit before it was assigned to Kapama, and that the default reflected the fact that Mr K hadn't made the contractual payments on the loan. The investigator said that because Kapama didn't register the default it wasn't in a position to remove the data from Mr K's credit file. The investigator said that the notice of assignment had been sent by Kapama to Mr K in December 2014.

Mr K didn't agree. He said that he'd notified Mini Credit of a change of address in June 2014 and that the notice of assignment had been sent to him at an old address. He also said that Mini Credit and Kapama were both part of the same parent company (Opos). He says that MiniCredit had its permission to trade cancelled due to poor practice and that the parent company simply transferred the debt from one company to another. Mr K said that a notice of assignment had to be sent by email and by a letter to the account holder registered address. He said that neither of these was received. Mr K said that because the assignment was ineffective the loan should be written off.

my findings

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

I've looked at the information provided about the default. I can see that Mr K didn't maintain his contractual payments under the loan and that the default was registered against Mr K's credit file on 13 October 2014. I've looked at the payment history on the loan account and I can see that although Mr K made contractual payments, these were requested back. As a result the account fell into arrears. A lender is entitled to record adverse information about an account which has fallen into arrears. So in this case I'm satisfied that Mini Credit didn't do anything wrong when it recorded the information about Mr K's account.

Looking at the date of the registration of the default, I'm satisfied that the default was registered by Mini Credit. Only the business who registers the default has the power to amend or remove the default. So in this case I'm unable to ask Kapama to remove the default from Mr K's credit file.

I haven't been able to look at the default notice itself. Mini Credit didn't provide this to Kapama on assignment and the liquidators of Mini Credit weren't provided with it either. I appreciate that Mr K doesn't think that the default notice was sent. He's referred to "poor practice" by Mini Credit and says this makes it more likely than not that the default notice wasn't sent. I can't comment on poor practice but I don't agree that this alone means that the default notice wasn't sent. When a company goes into liquidation it's often the case that documents can't be located. So it's equally possible that the default notice was sent to Mr K but that records of it have been lost in the lead up to and aftermath of the insolvency process.

I can see that Kapama sent a notice of assignment to Mr K at what he says was his old address. I can also see that Mr K wrote to Mini Credit in June 2014 and advised it of a change of address. When the account was assigned, I can see that Mini Credit provided Kapama with Mr K's old address. Whilst I appreciate that Mr K wasn't living at the address to which Kapama sent the notice of assignment, this was the address which Mini Credit provided to Kapama. So I can't reasonably hold Kapama responsible for sending it to that address, because that was the only information it held.

I understand that Mr K thinks that this shows a lack of diligence on the part of Kapama, and I agree that if Kapama had checked electoral role records it might have found different information about Mr K's address. But there's no obligation on Kapama to carry out a search of the electoral role. It's entitled to reply on the information provided to it by Mini Credit.

I can also see that Kapama sent the notice of assignment by email to Mr K. This was sent to the same email address as Mr K had used when he notified Mini Credit of his change of address. There's no evidence to suggest that Mr K didn't receive the notice of assignment by email.

Mr K says that Mini Credit and Kapama are the same company. I haven't seen any evidence to suggest that this is the case and they both appear to have different company registration numbers. I think they are separate corporate entities. Therefore I can't hold Kapama responsible for the actions of Mini Credit.

For the reasons given above, I'm unable to uphold the complaint.

my final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 5 April 2018.

Emma Davy
ombudsman