

complaint

Mr R is unhappy The Royal Bank of Scotland Plc can't provide a copy of a default notice it issued against him.

background

Mr R says RBS issued a default notice against him in 2012. But he never received it. And the bank can't give him a copy. He believes there may be errors in it. If RBS can't give him a copy then he wants the default removing from his credit record.

RBS said it couldn't provide a copy of the original default notice. It was issued centrally and a copy wasn't saved. But it could provide a transcript of the content and wording.

RBS wrote to Mr R in June 2012. Mr R had continued to use his account when there were no available funds. And the debt increased because of overdraft charges. It had also sent a text message and made a number of calls to alert Mr R to the status of his account. The bank made further calls and sent a second letter in July.

Because the bank didn't hear from Mr R it issued a default notice in September 2012. It issued a formal demand the next month. RBS said it still hadn't heard from Mr R. So it passed the account to a debt collecting agency. RBS could see he'd made a payment of £100 to the agency. So he was aware of the debt.

RBS didn't think it had done anything wrong. It'd issued the default correctly. So it wouldn't remove it from his credit file. But the bank could see it hadn't responded to letters he'd sent in 2016. And it offered £75 compensation.

Our adjudicator looked into the matter. He checked the bank's address files to make sure it had the correct details. And he confirmed the bank's records showed the default notice and formal demand had been produced. So he thought it likely the notices were sent to Mr R.

Mr R's account was overdrawn and the balance was increasing due to account charges. And Mr R didn't repay the debt. So he felt RBS had acted correctly when it issued the default notice. He could see RBS had offered him £75 compensation for not responding to his letters in 2016. And he thought that was fair in the circumstances. But he didn't think it was fair to ask RBS to remove the default because it couldn't produce a copy of the notice.

Mr R didn't agree. If he'd received a final demand he would've settled the remaining debt. He'd settled the balance in June 2016 when he realised it was still outstanding.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion as our adjudicator.

I realise Mr R is frustrated RBS can't provide an actual copy of the notice or final demand it sent him in 2012. So I've checked what RBS are able to provide. The bank has confirmed its internal records show they were sent. And the correct address was on file. So I agree its likely RBS sent the letters to Mr R. And I can see it made a number of calls to try and notify him that his account had become overdrawn.

Mr R would've been aware of the debt when he paid £100 to the agency in 2014. And I can see he settled the outstanding balance in 2016. So his credit file should reflect this and any potential lender will know the account has been closed and repaid.

But I can't ask RBS to remove the default unless there was a mistake when it was applied. Mr R's account had become overdrawn. And charges were increasing the debt. RBS tried to contact him by texts, phone calls and letters. But it didn't receive a response. So it issued a default notice and final demand.

I know Mr R says he never received them. And he'd like to see a copy of what was sent to him. But the bank's systems don't keep copies. They just note on the customer's record when something is sent. So I can't ask it to provide something it can't produce.

I know this is disappointing for Mr R. So I've carefully checked what RBS has provided to us. From what I've seen I've no reason to doubt RBS tried to contact Mr R about his account. His account was overdrawn and that was the normal course of action. And its records show the default notice and final letter would've been sent to the correct address.

Mr R has now cleared the debt. But I can't say the default was applied incorrectly in 2012. It reflected the status of the account at the time. So I can't ask RBS to remove it. That wouldn't be right.

RBS has offered Mr R £75 compensation because it didn't respond to his letters in 2016. And I think that's a reasonable response. But I can't ask RBS to do anything more.

my final decision

My final decision is that The Royal Bank of Scotland Plc should pay Mr R £75 compensation as it has already agreed to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 15 September 2017.

Andrew Mason
ombudsman