

complaint

Mr T complains that Santander UK Plc failed to provide adequate warning before registering a default on his credit file and handled poorly his subsequent complaint.

background

Mr T took out a student account with Santander when he went to university and this subsequently turned into a graduate account. This was not Mr T's main bank account and, owing to some problems with the address Santander held on its records at one time or another, he says he lost track of it. As the account was overdrawn, and the bank was unable to contact Mr T, it eventually defaulted the account. Soon after, the bank's appointed agent managed to make contact with Mr T and he agreed to make a partial payment which was accepted in full and final settlement of the account.

Mr T thought no further of the account until 2011 when he was checking his credit file and noticed the default. He complained to the bank and identified that it still held the wrong address for him. The bank replied to his complaint but sent its letters, on more than one occasion, to the wrong address.

Santander said Mr T was aware he owed money on the account and he was warned about the implications of not repaying the debt. The bank refused Mr T's request to remove the default from his account. Mr T was dissatisfied with the bank's response and its overall handling of his complaint so referred the matter to this service.

I issued a provisional decision on this complaint in August 2013 which set out the background to the complaint and why I considered it should be upheld in part. I concluded, in summary, that:

- It was clear Santander held the wrong address for Mr T at one time or another and this, more likely than not, meant he did not receive all the letters that the bank sent to him. That includes the default notice the bank's records show it sent in May 2009.
- It is clear from the bank's notes of a number of phone calls that Mr T understood there was a debt that required repayment. And, he must have realised that his banking facilities had been withdrawn given he had been actively using his account prior to May 2008 and would have had to make alternative arrangements when his facilities were withdrawn.
- Mr T says he never agreed to a repayment plan but I had doubts about his recollections in this respect. The bank's notes clearly suggest otherwise and Mr T made seven repayments over the course of a year. It was also clear Mr T did not ensure the agreed standing order instruction was in place and operating as expected.
- The bank's notes suggest it explained to Mr T the implications of not maintaining the agreed repayment plan. It seemed more likely than not this would have included the possibility that the account would be defaulted. Mr T says he would have cleared the debt in full if he had been made aware this was a possibility. But, again, the bank's notes suggested otherwise. It is recorded specifically on the day the bank discussed the possible implications of breaking the repayment plan again that Mr T could not afford to repay the debt in full.

- I was not persuaded the default should be removed from Mr T's credit file.
- I identified from Santander's more recent notes that it might still be sending transaction summary statements to Mr T saying that he owed the bank money. I was satisfied Santander's agent's notes indicated the payment he made – although less than the total amount owed – had been accepted in full and final settlement of the debt. I did not consider it was fair for the bank to have been pursuing Mr T for repayment of the remaining debt. I was minded to instruct the bank to stop all future correspondence and pay Mr T compensation in recognition of any distress and inconvenience caused by the receipt of such correspondence.
- I was not persuaded the bank handled Mr T's complaint as well as it should have. Amongst other things, it kept writing to him at the wrong address, even after he had confirmed the correct address. I was minded to instruct the bank to pay compensation in recognition of the distress and inconvenience Mr T has been caused because of its poor complaint-handling.

Santander said it had nothing further to add in response to my provisional findings. Mr T reiterated that the default should be removed from his credit file. He said, in summary, that:

- He was never warned that the account might be defaulted. He knew what it meant for an account to be defaulted and so, if he had ever been warned this was a possibility, he would have found a way to repay the debt immediately.
- During the phone call with Santander's agent in July 2009, and after he made the final repayment, he asked whether a default would be recorded on his credit file. He was told no default had been recorded. Had he been warned then that the account had already been defaulted he could have taken steps sooner to get the default removed and/or made sure he did not apply for additional credit, thereby damaging his credit file further.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where there is a dispute about what happened, I have based my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the evidence.

I have considered Mr T's comments carefully but remain satisfied the default should remain on his credit file. I think it more likely than not, given the notes the bank made of its conversations with Mr T, that he was warned what would happen if he failed to make payments in accordance with the repayment plan. The bank acted reasonably by resetting the plan more than once after Mr T missed payments. And I am not persuaded Mr T would necessarily have been able to repay the debt even if he had received the default notice – he had said before that he could not afford to do so even after he was warned about the implications of not paying.

Given the time that has passed it seems unlikely Santander's agents will still have a recording of the July 2009 telephone call – and it may not even have been recorded. The agent's notes make no reference to discussions about a default and it seems unlikely the agent would have said that no default had been recorded. I say the latter with the understanding that debts are generally passed to collections agents only after an account is defaulted.

my final decision

My final decision is that I uphold Mr T's complaint in part and instruct Santander UK Plc to:

- Ensure no further statements concerning the debt or requests for repayment are sent to Mr T.
- Pay £200 compensation to Mr T.

Ruth Lewis
ombudsman