

complaint

Miss A and Ms B complain that they are being pursued by Motormile Finance UK Limited ("MMF") to pay an outstanding balance on a finance agreement. They say it was settled and closed in 2008 and they do not owe this money. They also say MMF's behaviour was threatening and inappropriate.

Although the complaint is in joint names Miss A has provided most of the correspondence and submissions. So I will primarily refer to Miss A, but will refer to Miss A and Ms B when appropriate.

background

Miss A and Ms B took out a joint hire-purchase agreement with a finance company (which I will call here 'business one') to buy a car. Miss A says they ran into payment difficulties in 2008 and agreed to hand the car back. She says she paid the amount business one told her to pay over the phone and got a letter from it dated 28 March 2008 saying the agreement had ended.

Miss A says she heard nothing more for about four years. She was then contacted by MMF and told a debt had been assigned to it from another business (which I will call 'business two'). Business one had sold the account to business two in 2008. In due course, business two sold the account to MMF.

MMF says it first wrote to Miss A about the assigned debt in October 2011. Miss A disputes this, saying she first got the letter in February 2012. She also says business two told her it had no knowledge of the letter from MMF and she said it must be fraudulent. However, business two has since told us that MMF issued the letter with its authority. Business two and MMF say the assignment letter is genuine.

MMF asked business one to clarify whether the debt was still outstanding, or whether the account had been paid off in 2008. Business one said the account was not paid off in 2008. It also said it did not issue the letter Miss A claims to have received from it in March 2008. Business one set out detailed concerns about the content and format of the letter and said, in clear terms, that it is not genuine.

Miss A has also provided this service with a copy of a bank statement which she says shows she made a payment of £2,192.87 to business one on 18 March 2008. We have sent that copy statement to business one. It said it did not receive this payment from Miss A. It also said a payment of that amount would not have been enough to clear the outstanding balance on the account (which was over £7,300 at the time).

We also sent the statement to Miss A's bank. It expressed concern about the content and format of the statement, and has told this service that it does not appear to be genuine. The bank asked for Miss A's sort code and account number to carry out further investigations into the payment. To date, despite several requests for this information from Miss A – and although she told us she had sent this information to us – we have not received it.

Our adjudicator did not uphold the complaint. She did not think MMF had acted wrongly by continuing to ask Miss A and Ms B to pay the debt. She felt MMF had acted appropriately by referring Miss A and Ms B's concerns to business one for clarification of the debt. And she did not find Miss A's evidence of account settlement persuasive. The adjudicator also did not

think MMF's actions or behaviour overall had been inappropriate – although she accepted it could have worded one of its emails better.

Miss A disputed the adjudicator's findings about MMF's actions. She insists the letter from business one and her bank statement are authentic and questions why she would fabricate evidence or why she would continue her complaint and refer it to so many different authorities. She also says the fact the account isn't shown on her credit file is clear evidence that it was settled in 2008.

The adjudicator asked one of the credit reference agencies for copies of Miss A and Ms B's credit files. They do not show the account. However, MMF has provided evidence that it has been reporting the accounts with a different credit reference agency. It says it will now update the information it provides to all three credit reference agencies.

The adjudicator explained that if Miss A and Ms B wanted to complain about the actions of business one and business two, they would have to make separate complaints about them. Miss A indicated that she wanted to do this. But again, despite several reminders and although Miss A says she sent them, we have not received Miss A and Ms B's completed complaint forms. So those complaints have not been taken forward at this time.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I do not uphold this complaint.

Miss A – on her own and also Ms B's behalf – has provided detailed submissions about why she feels the debt is not outstanding. She has also raised many areas of concern about MMF's actions and about various emails and items of correspondence. However, despite Miss A's strong feelings on the matter, it seems to me that this case is at its heart quite straightforward.

What I have to decide is whether I think MMF was and is entitled to ask Miss A and Ms B to pay this debt. Having considered all the evidence and submissions provided, I think it is entitled to ask them to pay it.

Miss A has provided what, on the face of it, seemed to be good evidence that she settled the debt in 2008. However, that evidence has had significant doubt cast on it, not only by business one but also by Miss A's own bank. Both have raised what I find to be legitimate and plausible concerns about the authenticity of those documents. And I am not satisfied by Miss A's responses to those concerns or by her lack of response to our requests for information.

Given this, I cannot reasonably place any reliance on the letter dated 28 March 2008, or on the copy bank statement Miss A has submitted.

Apart from those two documents, Miss A's other main arguments that the debt was settled in 2008 are:

- her recollection of being told by 'a lady' at business one over the phone that a payment of £2,192.87 would settle the debt;

- that she heard nothing about the debt for about four years after 2008; and
- that the debt was not recorded on her (or Ms B's) credit file with at least one of the credit reference agencies

I have to say I don't find any of those arguments very persuasive, because:

- Business one has said it did not receive the payment and it would not have been anywhere near enough to settle the debt even if it had received it. I can see no obvious reason why business one would agree to accept such a reduced payment in settlement of this substantial debt. In any event, Miss A and Ms B have also been told how to pursue a complaint against business one if they feel it gave them the wrong information. They have not yet done so.
- MMF is not responsible for business two's actions (or lack of them) if indeed it did not contact – or try to contact – Miss A or Ms B (and I make no finding on that here). Again Miss A and Ms B have been told how to pursue a complaint against business two and have not yet done so.
- Creditors are not required to report to all (or any) credit reference agencies – although it is considered good practice. So the fact that the debt was not reported with one of the credit reference agencies does not mean it was not owed, or had previously been settled. MMF has provided evidence that it had reported the account to one of the three agencies and says it will now update the information with the other two. So it seems, at best, this was an oversight. It does not help Miss A and Ms B's efforts to show that the debt was not outstanding.

Miss A and Ms B have also complained about MMF's behaviour in trying to get them to pay. But overall I don't think it has acted inappropriately. I agree that some of the email exchanges between Miss A and some staff members at MMF have become quite heated, but given the nature of the issues raised I am not persuaded that is entirely MMF's fault.

I am not persuaded, overall, that MMF has acted inappropriately or that it is not entitled to ask Miss A and Ms B to pay this debt where, on the available evidence, it appears to be legitimately owed.

I remind Miss A and Ms B that they do not have to accept my final decision. If they do not, it will be open to them to raise their concerns in court, where witnesses can be cross-examined and documents can be forensically tested if necessary.

my final decision

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

Dawn Griffiths
ombudsman