

complaint

Mrs D complains that BCW Group Limited is pursuing her for a debt that she has already settled.

background

Mrs D borrowed £400 in October 2007. Mrs D says that she moved house soon after and that, despite contacting the lender several times between 2007 and 2010, heard nothing more from it. She says she was finally contacted by one of the lender's agents in 2011 to discuss repayment of the loan and, after refusing to accept that the outstanding debt was £596, paid £300. She has provided a payment book that she says proves this was accepted as payment in full.

BCW – to whom the lender sold the debt in August 2009 – disputes this. It has provided evidence that the outstanding debt was £596 as early as November 2007 and says Mrs D has not paid anything more towards it. It says that the payment book provided by Mrs D is for an unrelated debt that was settled in early 2008.

Our adjudicator did not uphold the complaint. She found no evidence that Mrs D had paid £300 to the lender. She explained that there were two loans taken out with the lender in 2007 by two different people with the same name. One of the loans was the debt BCW was asking Mrs D to repay; the payment book Mrs D says proves she settled the debt was for the other loan. Our adjudicator concluded that the outstanding balance of £596 that BCW is asking Mrs D to repay is correct.

Mrs D did not accept those conclusions so the matter was referred to me for review.

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 the complaint.

Mrs D's original lender has sent us a copy of the loan agreement. This shows Mrs D borrowed £400 in October 2007. Under the terms of the loan, Mrs D was to repay £12 per week over 56 weeks – £672 in total. The lender has also provided a statement that shows Mrs D made only three repayments in October and November 2007 (totalling £76) and the outstanding balance was £596 when it sold the debt to BCW.

Mrs D says she was contacted by one of the lender's agents early in 2011. The agent gave her a payment book that showed she owed £596. Mrs D argued that this was wrong and that she owed only £300. She says the agent investigated further, came back with a second payment book for a different loan, agreed to accept £300 to settle it and backdated the settlement to 2008.

Mrs D says she made three cash withdrawals of £100 to pay the agent in February, March and April 2011. I have examined Mrs D's bank statements for this period, as well as those of her husband. Whilst I can see a number of cash withdrawals from her husband's bank account around the time Mrs D says she paid the agent, I am unable to conclude that Mrs D paid the £300 she claims. Neither BCW nor the original lender has any record of these payments.

Mrs D has sent us a copy of the second payment book that the lender's agent gave her. This was a loan for £300 taken out in February 2007. The payment book shows an outstanding balance of £200 with two payments of £100 on 2 and 9 February 2008, clearing the debt. The account is recorded as "*paid with thanks*" on 9 September 2008. Mrs D says this supports her claim that she paid £300 in early 2011. I disagree.

First, this book does not show payments of £300 but only £200, contradicting Mrs D's story. Also, the lender's system notes show the account as having been paid in full – and as scheduled – on 8 April 2008. Finally, BCW's own internal notes suggest that Mrs D faxed it a copy of this payment book as far back as September 2009 – long before she says she paid the agent. Finally, I also have to consider the lender's statement that this loan was for an unrelated third party.

The other payment book Mrs D sent us actually supports BCW's case. It shows a loan for £400 taken out in October 2007 with three repayments in October and November 2007 totalling £76, reducing the debt to £596. I also have copies of two letters from the lender's debt collection agent to Mrs D in April 2008 demanding payment of £596. I am satisfied that this loan was taken out by Mrs D and is the debt BCW has been trying to recover.

There are a number of other questions that remain unanswered. Why would an agent of the lender contact Mrs D in 2011 when the debt had been sold to BCW in August 2009? On whose authority could that agent accept £300 to settle a £596 debt legally owned by BCW? Why would that agent record three payments of £100 as two payments of £100? And why would that agent backdate settlement to September 2008? (The lender has told us that its agent do not backdate payments. There also seems little reason for the agent to do so.)

Having carefully considered the evidence, I find it more likely than not that the February 2007 loan was settled in early 2008, certainly before BCW's internal note of 29 September 2009 and long before Mrs D says she paid £300 in early 2011.

I am also satisfied that the October 2007 loan had an outstanding balance of £596 when BCW contacted Mrs D in 2012. Mrs D was mistaken in thinking she owed only £300. I have seen no evidence that Mrs D paid £300 in 2011 and neither BCW nor the lender has any record of these payments. On balance, I am satisfied that Mrs D remains liable for the outstanding debt of £596.

Mrs D is under no obligation to accept my decision; if she does not, she remains free to pursue the matter in other ways, such as through the courts.

my final decision

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

Simon Begley
ombudsman