

complaint

Mr N complains J D Williams & Company Limited trading as Marisota instructed a third party debt collector to chase him for a debt that wasn't his - and wrongly recorded adverse information with credit reference agencies.

background

Mr N lives abroad. In early December 2013 a family member told him that a debt collector had contacted his old UK address. Mr N knew nothing about the debt and asked for more information. The debt collector said it would investigate with its client. And it confirmed that any follow-up action was suspended in the meantime.

On 15 January 2014 the debt collector sent Mr N a statement of account saying the matter was on hold for another two weeks - as it was still waiting for information. Three days later it extended that suspension until 16 February 2014. Mr N says he was concerned by the lack of progress and booked a flight to come back to the UK and resolve the matter. He arrived five days later on 24 January.

On 4 February the debt collector gave Mr N a telephone number for its client Marisota. Mr N spoke to Marisota's fraud team the next day. It accepted the debt was wasn't his and agreed to remove all adverse information from Mr N's credit file the same day. Mr N says Marisota should pay him compensation and his out of pocket expenses - including the cost of his return flights.

Our adjudicator didn't recommend the complaint should be upheld. He says there's no reason Marisota should have known the account was fraudulent when it was opened. And it acted promptly to rectify the situation when Mr N said the debt wasn't his.

Mr N disagrees. He says he only came back to the UK to sort this out. And Marisota should never have opened the account. He wants Marisota to give him the account documents and pay compensation.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have come to the same conclusions as our adjudicator for much the same reasons.

I can see it's been frustrating for Mr N to be pursued for a debt that wasn't his. And I understand that he's concerned to find out how it happened.

Marisota has provided some records which show that the account application was made in Mr N's name. And I'm satisfied it carried out its usual checks and found no reason to suspect the application wasn't his. So I can't reasonably find Marisota was wrong to open the account or to seek to recover the debt from Mr N initially.

And when Mr N told the debt collector the debt wasn't his, it suspended collections activity and raised the matter with Marisota. Within two months, Marisota accepted the account didn't belong to Mr N and took steps to rectify his credit record.

I appreciate Mr N would have preferred Marisota to have responded faster. But I consider Marisota was entitled to a reasonable period to investigate the matter. And, taking into account the Christmas holiday period, I'm not persuaded the time it took was excessive. And collections activity was suspended during the investigation – so I'm satisfied Mr N wasn't chased unnecessarily by debt collectors while it took place.

I can see that Mr N would like Marisota to give him copies of the account documents. But Marisota has accepted the account isn't his - so it can't supply him with information about the account of another. And Marisota confirms it will do all it can to help the police with any enquiries. So I can't reasonably criticise Marisota in the circumstances or require it to give Mr N the information he wants.

I realise this decision is likely to disappoint Mr N. But I'm not persuaded Marisota has acted unfairly or unreasonably. I'm satisfied it investigated the complaint, accepted the debt wasn't Mr N's and rectified his credit file within a reasonable time. So I can't fairly find there are enough grounds for me to require Marisota to do more.

my final decision

My decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr N to accept or reject my decision before 2 March 2015.

Claire Jackson
ombudsman