

complaint

Mrs A complains that Capital One (Europe) plc wrongly defaulted her credit card account.

background

Mrs A had a credit card account with Capital One. As she was paying less than the minimum payments required on the account Capital One says it issued a default notice in March 2012 and defaulted the account in April 2012. Mrs A says she was unaware of the position in respect of the accounts as she did not get statements from Capital One, nor did she receive a default notice.

Our adjudicator recommended that this complaint should be upheld in part. Her view was that Capital One had followed the correct procedure in respect of the default notice. However, she was not satisfied that a payment made by Mrs A in December had been properly allocated to Mrs A's account.

Mrs A disagrees saying in summary that she did not receive the default notice and if she had she would have paid it off. Capital One disagrees that Mrs A made the payment to it in December.

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 the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

During the period in question Mrs A clearly had difficulty meeting the payments on her credit card as she was paying less than the minimum monthly payment. This put her in danger of the account being defaulted which eventually happened. Mrs A says she was unaware of the position as she did not receive statements, and did not get a default notice. If she had received a default notice, she would have reacted as she did when contacted by collection agents - which was to enter an arrangement to pay off the debt.

Although Mrs A says she did not receive her credit card statements, Capital One has shown me evidence, which I accept, that she did not wish to receive paper statements. As Mrs A managed her account online and received e-statements, it is likely that she did not want to receive paper statements. I have also been shown a copy of the default notice dated 11 March 2012 addressed to Mrs A. I find on balance that it was likely that this default notice was indeed sent to Mrs A and as she did not react to it, Capital One could lodge a default. I note that Mrs A has now paid off this debt but I cannot fairly require Capital One to amend the credit registration which was properly done. I therefore do not uphold this part of Mrs A's complaint.

Mrs A appears to have made a payment of £14 to Capital One on 30 December 2012 which was not credited to her account. Her bank records the payment to Capital One. According to her statements, this payment was not returned. Although Mrs A did not make sufficient payments at this time, she did make monthly payments of about this amount. She made the payment online and had Capital One saved in her online banking portal. Capital One says it does not have this money in its suspense account and the payment may have been to

Mrs A's husband's account. However, I note that there had already been a payment to that account earlier in the month and consider it unlikely that Mrs A would have made a second payment to her husband's account in December.

As a result, I find it more likely, on balance, that the sum of £14 was paid by Mrs A to Capital One on the 30 December 2011 and should have been credited to her account. In order to remedy this, Capital One should refund Mrs A £14, together with the default charge of £12 and interest on this sum from 30 December 2011 until date of payment.

my final decision

My decision is that I uphold this complaint in part and in full and final settlement of it, I order Capital One (Europe) plc to pay to Mrs A:

1. £26.
2. Interest on the sum of £26 at the annual rate of 8% simple from 30 December 2011 to date of payment.

If Capital One (Europe) plc considers it has to deduct tax from the interest element of my award, it should send Mrs A a tax deduction certificate when it pays her. She can then use that certificate to try to reclaim the tax, if she is entitled to do so.

Gerard McManus
ombudsman