

complaint

Ms S complains that Drydens Limited (the business) pursued her to repay a debt she did not owe. She complains that she was put under pressure to admit to the debt even though no evidence of the debt was provided.

background

Ms S says that the business contacted her in 2015 about a debt she says she does not owe. She says that she was pressured into admitting that the debt was hers. She says she only completed the county court claim form admitting to the debt as she could not afford to defend herself. Ms S says that the business has no proof that the debt was hers.

The business says that it contacted Ms S in September 2015 to say the management of her account had been transferred to it. It wrote to Ms S in October setting out the debt and requesting Ms S contact it within ten days with her proposals for repayment. The letter says that if contact is not made by 7 November then the business had instructions to start legal proceedings.

The business says Ms S did not contact it until December, which was after the deadline, and so legal proceedings were started. It says that the county court sent out the claim form to Ms S and that Ms S contacted it in reference to this form and it told her to seek independent legal advice. It says Ms S then contacted it to say she would be filing an admission to the claim and that once it received this it wrote to Ms S with further information regarding the debt.

The business says Ms S contacted it again on 21 December and it was then that she was told that a judgement would be entered even if she offered payment. It says this was correct information as Ms S had filed a full admission and so the court would file a judgement where requested.

The business says Ms S' case was closed in March 2016 and sent back to its client.

The adjudicator upheld this complaint. She said that the business had not acted reasonably by contacting Ms S in October and saying that she needed to respond by 7 November or legal proceedings would start to recover the full balance. She said that it was also inappropriate to say that a judgement could not be avoided even if Ms S offered a payment arrangement.

In regard to the debt, the adjudicator said there was no supporting evidence to say the debt was Ms S' and that the data held was inaccurate. She said the regulations required the business to consider a customer's claim that the debt is not valid. She said that when Ms S contacted the business on 2 December the court actions should have been put on hold and Ms S shouldn't have had to return the county court claim form. The adjudicator believed that Ms S only submitted an offer of payment because she was threatened with court action.

Because the adjudicator did not find that Ms S had been treated fairly she recommended that the business pay her £100.

The business did not accept that it had done anything wrong. It said that its letter sent in October 2015 did not require Ms S to repay the debt in an unreasonably short time but instead requested that she contact it with her repayment proposal. It says that had Ms S got

in touch at that point it would have tried to reach an affordable repayment agreement. It said if Ms S had disputed the debt at that time it would have placed her account on hold while it got instructions from its client. It says that legal proceedings would not then have been issued. It also says that it sent a letter to Ms S in September saying she should get in touch if the outstanding balance was incorrect but Ms S did not contact it.

When Ms S contacted it, the business says that it said she should seek independent legal advice. It says that the information it gave her after she had admitted to the debt was correct.

The business says that it had instructions from its client to seek repayment from Ms S and that if no response was received to issue legal proceedings. It says it did not do anything wrong when dealing with Ms S' account.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have looked at the letters the business sent to Ms S. The letter sent in September set out the details of the debt and explained that the management of this had been transferred to the business. It said that Ms S should get in touch if she thought she had received the letter incorrectly or the balance was wrong. Ms S did not get in touch with the business in response to this letter.

The letter sent in October again set out the details of the debt and said that it required Ms S to contact it with her proposals for repayment within ten days. It noted that if contact had not been made by 7 November then it had instructions to issue legal proceedings.

Ms S did not get in touch with the business until early December after legal proceedings had started. I accept that had she got in touch earlier then it could have been possible to prevent the claim form being sent out. I also note that the business advised Ms S to seek legal advice when she contacted it about the debt.

However, when Ms S got in touch with the business she made it clear that she did not believe the debt was hers. I can see that she said she would not dispute the debt further and would send an offer of repayment; however she also reiterated that the debt was not hers. When Ms S submitted the claim form admitting to the debt she also provided a cover letter that once again set out that she did not believe the debt was hers.

I have looked at the business' system notes and I can see that following the issues raised by Ms S the business tried to get evidence of the debt. There was no documentation available and the debt was recalled.

When a business is considering the collection of a debt I find it reasonable to expect that it has evidence that they are pursuing the correct person. In this case I accept that the business was managing the account for its client and that letters were sent to Ms S and she did not respond to these. However, on investigation it appears that there was no documentation available to show the debt was Ms S'.

I understand that Ms S admitted to the debt on the claim form but she also provided a cover letter saying the debt was not hers. She had raised this each time she had been in contact.

While I accept that Ms S could have done more to prevent the legal proceedings starting by contacting the business in response to its letters in September and October, I also find that the business was pursuing her for a debt that it did not have supporting evidence for.

On balance I find that the business should have done more to ensure the debt was Ms S' before contacting her about repayment.

This issue has caused Ms S stress and upset and because of this I find it reasonable that she is awarded compensation. The adjudicator recommended £100 which I find reasonable.

my final decision

My final decision is that I uphold this complaint. Drydens Limited should pay Ms S £100 compensation in settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 23 January 2017.

Jane Archer
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