

complaint

Mr B complains that 1st Credit (Finance) Limited has asked him for repayment for a debt that he has not acknowledged and which he has heard nothing from the creditor for the past six years. He says 1st Credit has not shown that the debt is not statute barred under The Limitations Act 1980.

background

1st Credit bought an unpaid credit card debt held with a creditor in late 2008. The debt was recorded as being Mr B's and a default had been registered on his credit file for the outstanding amount.

1st Credit wrote to Mr B about repayment of the debt and spoke with him on the telephone. But no payments were made towards it. 1st Credit continued to write to Mr B at the addresses it was able to trace for him, but it received no response.

In mid 2013, Mr B wrote to 1st Credit to ask that it make no further contact with him about the debt. He said the Debt Collection Guidance of the Office of Fair Trading said that it was unfair for 1st Credit to pursue the debt where he had heard nothing from it for six years, and he would not be paying it as it was statute barred.

1st Credit said that it did not consider the debt was statute barred as it was still due and owing.

Our adjudicator said the Financial Ombudsman Service was unable to decide whether a debt was statute barred as this could only be determined by a court of law. He said that Mr B had not claimed the debt was not his, and he was unable to conclude that 1st Credit had acted incorrectly in contacting Mr B about its repayment.

Mr B did not accept the adjudicator had addressed his complaint. He said 1st Credit had not shown that he had admitted liability for the debt or made any payments towards it in the past six years. He also referred to a court case that 1st Credit had quoted which he said was not relevant.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As the adjudicator has explained, the Financial Ombudsman Service does not have the power to decide whether an outstanding debt should be considered statute barred under The Limitations Act 1980.

Mr B has said that 1st Credit has not shown that the debt it is pursuing from him is *not* statute barred.

1st Credit has provided its records of when it has attempted to contact Mr B about the debt.

These show that it has spoken to him on the telephone on at least one occasion since it bought the debt in late 2008, and that it received a letter from him about it in late 2009.

But again, it is not the role of the Financial Ombudsman Service to determine whether this may be 'proof' as Mr B has asked, when we are not able to decide if the debt could be considered statute barred.

I have however, considered the Debt Collection Guidance of the Office of Fair Trading that refers to unfair practices. The guidance lists what would be considered to be a statute barred debt and that it would be unfair to continue to collect a debt where the debtor has said that they would not repay it when it is statute barred. Having considered the circumstances here I am not persuaded that the 1st Credit has breached the guidance by trying to collect the debt.

Although Mr B may have chosen not to respond to the letters from 1st Credit about the debt, or may not have received them when it did not have his up-to-date address details, it did try and make contact with him in the years since it bought this debt.

In all the circumstances, I am unable to conclude that 1st Credit has acted incorrectly or inappropriately in contacting Mr B about the repayment of this debt. Any reference to a separate court case 1st Credit may have made does not change these findings.

my final decision

My decision is that I do not uphold this complaint.

Cathy Bovan
ombudsman