

complaint

Miss H complains that Lowell Financial Ltd (trading as Lowell Group) wrongly took payment from her in respect of a debt that did not belong to her.

background

Miss H says that she has discovered that debt repayments which she made to Lowell were in respect of a debt which was not hers.

Lowell said that it had bought the debt from a bank, and believed the original account had belonged to Miss H. It noted that Miss H had been making repayments to it on the debt for some time through a debt management programme. It did not accept that it had been wrong to expect Miss H to repay the debt, but said that it would take no further action in relation to the debt as a gesture of goodwill.

As things were not settled, Miss H brought her complaint to this service where an adjudicator investigated it. From the evidence, the adjudicator was not persuaded that Lowell had demonstrated that the debt had been owed by Miss H.

While Miss H had made some payments through a debt management plan after Lowell had bought the debt, there was no evidence that she had done so prior to that and the adjudicator was satisfied that Miss H had made repayments through naivety rather than because she acknowledged that the debt was hers.

To settle the complaint, the adjudicator recommended that Lowell should refund the payments Miss H had made to the debt (plus interest) and also pay her compensation of £150.

Lowell did not agree and said, in summary:

- The debt sale information provided to Lowell by the bank is sufficient to show that the debt was owed by Miss H. She has made payments to the debt for some time.
- The fact that Miss H still lives at the last known address the bank had for her speaks volumes.

my findings

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

There is limited evidence available about the origins of the debt. The bank with which the original account was held is unable to provide any information about the account from the reference number provided by Lowell. I appreciate Lowell's point about Miss H having made payments to the debt over a significant period of time. Previous voluntary payments made by someone towards a debt can sometimes be persuasive evidence that the debt is properly owed by them.

But the facts of each case are individual, and the overall circumstances must be considered before deciding what weight to give to any particular piece of evidence. Miss H accepts that she made a number of small payments (of between £1 and £9 a month) to Lowell towards the debt, as part of a larger debt repayment plan set up for her by a debt charity.

Those payments went on for about two and a half years. Miss H says that, at the time, she assumed the debt charity had double-checked that each debt was correctly owed before agreeing repayments on her behalf. The standard letter sent by a not-for-profit adviser to Lowell at the time is very general in nature and does not, in my view, mean that Miss H is not now entitled to dispute the debt.

Miss H says that, at the time, her personal circumstances were such that she was struggling to cope with things and was suffering from depression. She suspects that her late husband may have been involved in opening the account without her knowledge.

By 2016, Miss H says she was better able to look in detail at her finances. That is when she questioned the payments made on this debt, and said that the account on which the debt had arisen was not hers. We have viewed Miss H's credit file, which does not show the account in question.

I have considered all the available evidence very carefully. Miss H strikes me as a truthful person and I find, on balance, that her account of events is accurate. So I accept that the payments made to Lowell on her behalf were sent under a mistake of fact and Lowell was not entitled to the money. Taking everything into account, I find that the settlement recommended by the adjudicator represents a fair outcome in this case.

my final decision

My final decision is that I direct Lowell Financial Ltd (trading as Lowell Group) to:

- refund to Miss H all the payments it has received from her in respect of the disputed debt; and
- pay her simple interest on that money at 8% a year from the dates of payment to the date of settlement; and
- pay her £150 in respect of trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 12 December 2016.

Jane Hingston
ombudsman