

complaint

Mr Q is unhappy that Lowell Financial Ltd is seeking repayment of a debt from him when he says he wasn't the person who opened and used the account to which the debt relates.

background

In October 2015 an online application was completed for a catalogue shopping account. The name given on the application and on the credit agreement was Mr Q's, but he says he didn't know anything about the account. He says it was his now ex-partner (Mr N) who both opened and used the account, all without his knowledge or consent. He only found out about the account after they'd split up.

Repayments to the account stopped in September 2016, the account was defaulted in April 2017 and the debt was sold to Lowell later that month. Mr Q told Lowell he shouldn't be held responsible for the debt and showed them he'd reported the matter to the police. But Lowell disagreed. They said there was a possibility Mr Q allowed Mr N to use his details to open the account and they thought it was more likely than not he knew it existed.

Mr Q disagreed and asked us to consider his complaint. He also told us that Mr N had taken out other accounts in his name while they were together, including a joint current account with one of the main high street banks. He'd similarly complained to that bank and they'd agreed there wasn't enough evidence to show he applied for the account so wrote off the related debt.

I issued a provisional decision last month setting out why I thought Mr Q's complaint should be upheld. I explained that in this sort of situation it's for the business to prove the debt is the person's who is being pursued for repayment. And I didn't think Lowell had done that. I said, in summary, that:

- A fraudster's ability to open and use an account relies on them being able to convince the business that they're the person they're actually impersonating. To do this, the fraudster will need to know quite a lot about that other person. In this case, Mr Q says it was Mr N who opened and used the account. I thought, by October 2015, Mr N could well have known enough about Mr Q to be able to impersonate him in the way required to open the catalogue account this debt related to. Or to pass any security questions that may have been asked during phone calls relating to the account.
- Lowell had been able to get fairly limited information relating to the account from the original account provider. It seemed likely the account was opened online, the information on the credit agreement about Mr Q was limited to his name, his address and an email address which Mr Q says is not his own. And I noted the address was more similar to Mr N's than Mr Q's name. It also seemed that the mobile phone number provided was probably Mr N's number. Lowell hadn't provided any other evidence that linked Mr Q to either the email address or phone number.
- Lowell suggested a credit check would've been completed and that, somehow, proved it was Mr Q that applied for the account. There was no evidence of the check being completed, but I accepted that probably did happen because it's a fairly standard part of the process when someone applies for credit. But I thought all that would've done was prove Mr Q lived at the given address – which there was no dispute about. It wouldn't prove that it was Mr Q making the application.

- Most of the items ordered from the catalogue were clothes but there was also some appliances and furniture which would've, apparently, required a signature on delivery. I explained what Mr Q remembered about those items and what he'd told me about his living arrangements. And that I didn't think any signatures which may have been taken on delivery (but which hadn't been shared with us) would've proved Mr Q knew about the deliveries. Mr Q told us he was working long hours at the time, whereas Mr N was unemployed and at home every day. And deliveries can generally be accepted by anyone who lives at the address irrespective of who placed the order.
- Mr N's lack of employment and the fact Mr Q worked long hours, meant he had the opportunity to take delivery of items without Mr Q knowing. And it also gave him the opportunity to intercept any post that related to the catalogue account – Lowell said statements would have been sent every 28 days but Mr Q said he never got any.
- The original account provider hadn't been able to say much about how the few repayments were made to the account. But I'd got account statements from the bank where the disputed current account was held. And some of the repayments came from that account. I said it could be argued that the links between the catalogue account and bank account suggested Mr Q might've known about the catalogue account. But, overall, I didn't think that was more likely than not in this case.
- I had difficulty understanding why Mr Q let the account default if he knew all about it. There was nothing which suggested he couldn't have afforded to meet the repayments. And he'd likely have realised that if he didn't make the necessary repayments he would end up with adverse information being reported on his credit file. Mr Q says he put mail redirection in place in May 2017 after he moved to his current address. He subsequently received mail about both this and other debts that Mr N had taken out in his name (without him knowing). And he also saw information about the accounts on his credit file. But that happened after the catalogue account had already defaulted, by which time it was too late for Mr Q to do anything to prevent the default. But he did, at that point, speak to the original account provider about the fraud.
- I thought Mr Q had been consistent in his submissions and I found his version of events plausible and persuasive. Overall, on balance, I didn't think he knew anything about the account to which the debt related. So I didn't think it was fair to expect him to repay the debt or for it to be recorded on his credit file.

Mr Q accepted what I'd said and Lowell said it had nothing further to add.

my findings

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

As no-one sent in any further evidence or arguments for me to consider, I see no reason to depart from the conclusions set out in my provisional decision and summarised above.

my final decision

My final decision is that I uphold this complaint and, in order to put things right, Lowell Financial Ltd must:

- Remove any connection between Mr Q and this debt and stop all collections activity against him.
- Instruct the credit reference agencies to remove all records of the account from Mr Q's credit file that they have control of.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Q to accept or reject my decision before 10 May 2018.

Ruth Hersey
ombudsman