



summary of complaint

Mr D complains that HSBC Bank plc are holding him personally liable for an outstanding debt on a home management current account. Mr D previously held this account jointly with his late ex-wife, Mrs B.

background

In 1983 Mr D opened a joint account with the late Mrs B to manage their household expenditure. In 2000 Mr D and Mrs B got divorced. After this date the account remained open in joint names; Mrs B paid £30 per month to repay the outstanding balance on the account. These funds were made by a standing order from a separate account in her sole name.

As a result of an illness which Mr D had, an insurance claim paid out a sum of £38,000. The full balance of this amount was awarded to Mrs B, allegedly following court proceedings and on the proviso she clear the outstanding debt on the home management account. Mr D claims to have shown copies of legal paperwork, which confirmed that liability for repayment of the account lay with Mrs B, to a retail branch manager at HSBC.

In 2008 Mrs B passed away. In light of her death, the monthly repayments of £30 ceased to be paid into the account. Upon HSBC being notified of Mrs B passing away, the account was transferred into Mr D's sole name. HSBC have explained that without confirmation from the court, Mr D remains liable for the outstanding debt.

An adjudicator has already recommended that this complaint should not be upheld. Mr D did not accept this conclusion and has asked for the case to be referred to an ombudsman.

my findings

I have considered all the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances of this complaint. All the evidence has been considered on the balance of probabilities – in other words, what I consider is more likely than not to have happened in light of the available evidence.

I have considered the bank statements for the account. I am satisfied that a joint account was held in the names of Mr D and Mrs B. Both parties were equally liable for the account debt. The statements clearly show that in May 2008 HSBC transferred the account into the sole name of Mr D; this being after the death of Mrs B. Upon the account being transferred, no monthly payments were made into the account. Interest continued to be charged. As of 21 April 2013 the account was £4,271.39 overdrawn. Mr D did not pay any funds into the account because he did not accept that he was liable for the debt. However, on the evidence before me I am satisfied that HSBC was entitled to transfer the account into his sole name and charge interest each month.

Mr D has apparently been unable to obtain any of the paperwork from his divorce proceedings. Mr D has explained this is because his instructed solicitor has ceased trading and any documentation he received from his barrister was stolen during a break in to his property some time ago. I am not persuaded to accept that liability for repaying the debt on the account rested with Mrs B without sight of any court order to this effect.

Mr D claims that a retail branch manager at HSBC was shown a copy of the divorce papers, whereby it was noted that Mrs B was liable for the debt on the account. There are no records that the retail branch manager was advised of any divorce proceedings or shown any such papers. I have seen no evidence that HSBC was provided with confirmation that Mrs B was liable for the account debt.

HSBC were not a party to any negotiations which may have taken place between Mr D and Mrs B. The onus therefore rested with Mr D to provide HSBC with the necessary documentation to satisfy them that he was not liable for the account debt.

I have seen no paperwork from the divorce proceedings that supports Mr D's claim that he should be released from liability for this debt. Upon considering all the evidence I reach the same conclusion as the adjudicator. I am not persuaded this is a complaint which I can uphold. I believe HSBC is entitled to pursue Mr D personally for the outstanding debt on the account.

my decision

My final decision is that I do not uphold this complaint.

Robyn McNamee
ombudsman