

complaint

Mr V complains that Cabot Financial (Marlin) Limited (the business) is chasing him for payment on an account that he has already settled.

background

Mr V says that he settled his account with the original account owner in October 2010. He says his account was migrated to a new owner in November 2011 and it was after this he was told that his account was in default. He says he wrote to the new owner saying he had settled the account and then didn't hear anything until a year later. In February 2013, he was contacted to say his account had been sold to the business and he says he contacted it to say he had settled the account. Mr V was in communication with the business through 2013 about his concerns, including that he had made two payments to the account which he disputes. He says he was then contacted in February 2015 saying the business' name had changed and provided with a statement showing he still owed money.

The business says that Mr V's account is still outstanding. It says that the evidence Mr V provided of his bank statement showing a payment in October 2010 was not sufficient to show that a settlement payment had been made on the account. It says that the previous account owner had confirmed that the last payment made by Mr V was in September 2010 for an amount of just over £60. It says that because it believed Mr V's account was still outstanding it had done nothing wrong in contacting him about payment.

The adjudicator said that she did not have sufficient evidence to show that Mr V's account had been settled. She said that while a payment had been made in October 2010, based on the information she could not confirm that this had been made to Mr V's outstanding account.

Mr V did not agree. He said that he had agreed an amount to settle his account and paid this in October 2010. He said that the adjudicator had not considered that mistakes had been made on his account, including the two payments that show on his account but he says he did not make.

my provisional findings

I issued a provisional decision in this case and concluded in summary:

- That the business acquired the debt in good faith and the information it acquired from the original debt owner showed that the debt still existed, but it was more likely than not that a mistake had been made;
- Mr V experienced financial difficulties but following the sale of his house he tried to settle his debts and agreed settlement amounts with his creditors;
- Mr V had not been able to provide evidence from the original debt owner showing an agreed settlement amount. However, I did not find it unreasonable to accept that a settlement amount of £2,970 was agreed;
- Mr V made a payment of £2,970 in October 2010; and I found it more likely that this payment was to settle his debt.

Because of this, I upheld Mr V's complaint.

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 not received any further evidence since issuing my provisional decision. Based on this I find no reason to depart from my provisional findings.

my final decision

My final decision is that I uphold this complaint.

I direct Cabot Financial (Marlin) Limited to:

- write off the amount it has outstanding and close Mr V's account;
- stop all collections activity in relation to this account; and
- update Mr V's credit file to show the account as being settled in 2010.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 8 January 2016.

Jane Archer
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