

complaint

Mr K complains that NewDay Ltd (trading as "Aqua") recorded a default on his credit file.

background

Mr K had a credit card account with Aqua. From May 2012 he was living away from home unexpectedly and stopped making the repayments that were due. Aqua applied fees to the account. In November 2012 it recorded a default on Mr K's credit file, and a couple of months later, it sold the debt to a third party.

Mr K says he's always made his payments on time. He says he wrote to Aqua to tell it about his changed circumstances. And Aqua confirmed over the phone that it had received his letter after it registered the default. He says that if he'd known his circumstances were going to change as they did, he'd have repaid the remaining balance in full. He explains that before his change of circumstances, he'd lived alone, so no-one had access to his post. He'd like Aqua to remove the default from his credit file.

Aqua says it didn't receive any correspondence from Mr K during the period in which he was unexpectedly away from home. If it had done, it would have asked him for further information, including details of the address where he was living. It says the fact that it didn't receive that information supports what it says about not having been told about Mr K's circumstances. Since it didn't receive any contact from Mr K, the account fell into arrears, and it sold it in line with its business procedures. It says it has an obligation to report true and accurate information to credit reference agencies.

Our adjudicator didn't recommend that the complaint should be upheld. In summary, she wasn't satisfied that Aqua had received any communication from Mr K about his circumstances. And Mr K didn't appear to have chased Aqua for a response to his letter or made arrangements to mail redirected to him. She commented that the fact that he says he asked Aqua to freeze his account shows that he knew about the outstanding balance. She was satisfied that Aqua had written to Mr K about the debt and had tried to speak to him on the phone. Since it was unaware of Mr K's circumstances, it acted reasonably by applying the default.

Mr K is unhappy with the adjudicator's view. He says he didn't have Aqua's address or phone number when he first started living away from home. But when he got the address, he wrote to it. He says removing the default would have no effect on Aqua, but it would have a big impact for him.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion as the adjudicator.

It's clear that Mr K was aware that a balance was outstanding on his credit card. But Aqua says it has no record of having received any communication from him about his change of circumstances. I note that Mr K says that Aqua confirmed that it received his letter about his changed circumstances. But he says that it explained that this was after it had registered the default. So even if it did eventually receive a letter from Mr K, I'm not satisfied that this would have been in time to prevent the default from being registered.

I accept that Aqua continued to try to contact Mr K about the debt, using the contact details it had on record. But Mr K's explained that no-one had any access to his mail. So he'd have been unaware of Aqua's communications.

By the time Aqua registered the default, it hadn't received any payment from Mr K for more than seven months. And I'm satisfied that it hadn't received any contact from him either. I'm sorry to disappoint Mr K, but I don't find that Aqua was at fault in registering the default. The default was an accurate reflection of the state of Mr K's account at the time. So I can't reasonably require Aqua to remove it. The default should be removed from Mr K's credit file in any event six years after it was recorded.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 14 November 2016.

Juliet Collins
ombudsman