

complaint

Miss S complains about being pursued for a debt she says she does not owe. She believes that she has been harassed by 1st Credit Limited and that the debt is statute barred.

background

The adjudicator did not recommend the complaint be upheld. She explained that she did not think it was unreasonable for 1st Credit to pursue Miss S for the debt and she didn't think Miss S had been harassed. She also did not think the debt was statute barred.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have not upheld this complaint.

Miss S believes the complaint is statute barred and she should not therefore be required to pay the debt. A debt (in England and Wales) will generally become statute barred if nothing has been paid or the debt has not been acknowledged within the last six years. In this instance 1st Credit says that Miss S made a payment of £20 less than six years ago and it does not accept the debt is statute barred. Miss S says she does not remember making the payment.

The full details of who made the £20 payment are no longer available and I cannot be certain that it was actually Miss S that made the payment. Having considered the circumstances here, along with the notes from the discussions with Miss S around the time, I think on balance it was likely to be Miss S that made the £20 payment. As this was less than six years ago I do not think it is unreasonable for 1st Credit to seek repayment of the debt.

I have also considered what both parties have said about the way that 1st Credit dealt with Miss S and I do not doubt that this would have been difficult for her. However, I am not persuaded the actions of 1st Credit amount to harassment.

Miss S has also said that she does not think the debt is enforceable as she has not been provided with a copy of the original credit agreement. 1st Credit says as the debt arose from an overdraft on a bank account there was no actual credit agreement for this type of arrangement. As the adjudicator has said, the decision about whether the debt is enforceable will be for a court to decide if 1st Credit tries to enforce the debt through the courts. Miss S will be free to raise any arguments about the enforceability of the debt with the court at that time. Although there is no credit agreement available, in the circumstances here I am not persuaded that this should prevent 1st Credit from seeking repayment of the debt.

I appreciate Miss S will be unhappy with my decision but there are no grounds for me to instruct 1st Credit to cease collection activity. If Miss S would like some further assistance or advice about her debt there are agencies available to help. The adjudicator referred to these in one of her previous letters and if required I would suggest Miss S again refers to these.

my final decision

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

Mark Hollands
ombudsman