

complaint

Mrs K complains that MKDP LLP is wrongly asking her to pay disputed debts, and will not mark the defaults as satisfied on her credit file.

background

Mrs K owed two debts, for current account overdraft and credit card borrowing, to a financial business ('T'). She was unable to pay these off. As a result, T defaulted the accounts in February and April 2009. It marked the defaults on her credit file.

T also had a second legal charge on Mrs K's home. It had taken the charge to secure her husband's business borrowing. She repaid the amount due under the legal charge in late 2009. Mrs K thought that she had also paid off the current account and credit card debts at this point. But T didn't accept this. T sold the debts to MKDP in December 2011. T sent the Deed of Assignment to the wrong address. (The Deed of Assignment explains that a debt has been sold to a new business). Mrs K has made a separate complaint to us about T.

Mrs K says she didn't know until 2013 that she still had two outstanding debts to pay. She would like MKDP to pass the debt back to T as it is disputed. Further the defaults should be marked as satisfied on her credit file. MKDP has refused to do this, so Mrs K brought a complaint to us to consider.

The adjudicator didn't uphold the complaint. He didn't think there was enough evidence to show that Mrs K had paid off the debts. So, he felt MKDP had properly been able to ask Mrs K to repay the debts. And as those debts remained outstanding he didn't think MKDP should mark the defaults as satisfied, or pass the debt back to T.

The adjudicator noted that the Deed of Assignment had gone to the wrong address. He considered that a court would be better placed to determine if this had any effect on the enforceability of the debts.

Mrs K didn't accept the adjudicator's conclusions. She said that T told her that the defaults would be marked as settled when the borrowing under the legal charge was paid off. T should not have passed the debts to MKDP at all, and MKDP should return them to T. She also said that T and MKDP had been negligent in sending letters to the wrong address.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

This decision is confined to Mrs K's complaint about MKDP. I will decide her complaint about T separately.

MKDP took over the debts in December 2011. Mrs K did not receive the Deed of Assignment, as T sent it to the wrong address. But I do not consider this means, of itself, that MKDP can't ask Mrs K to repay the debts. And, as the adjudicator has explained, only a court can decide if the debts are enforceable. And Mrs K didn't repay the debts when MKDP did make contact with her.

I appreciate Mrs K thought the debts had been paid off when she cleared the debt secured by the second charge. But I don't consider she gave any evidence of that to MKDP. When Mrs K explained to MKDP that she thought she'd paid off the debts, it raised her concerns with T. I think this was the right thing to do. But T gave information to MKDP which satisfied it about how the debts had built up, and that they hadn't been included in legal action. And MKDP gave Mrs K another opportunity to give it anything she had to show she'd paid off the debts. She wasn't able to do this. So I don't consider it was unreasonable for MKDP to continue to ask Mrs K to repay the borrowing.

I do not agree that MKDP should remove the defaults from Mrs K's credit file, or mark them as settled. She has not settled the balances outstanding. So it is fair and accurate that the entries on the credit file reflect this.

my final decision

My decision is that I do not uphold this complaint.

Amanda Maycock
ombudsman