

complaint

Mr S complains that a used car he bought under a conditional-sale agreement with Moneybarn No.1 Limited was not of satisfactory quality.

our initial conclusions

Our adjudicator did not recommend that the complaint should be upheld. He considered that there had been some faults with the car on at least two separate occasions. He said that on the first occasion it appeared that the fault had been present at the time Mr S bought the car but this fault had been repaired. Therefore the problem had been put right and Mr S could not now fairly reject the car.

Further, our adjudicator considered that the cause of the second fault had not been established. In any event it had also been fixed and Mr S appeared to have accepted this remedy at the time. On this basis our adjudicator considered that Mr S could not reject the car due to this second fault either.

Our adjudicator realised that Mr S is now complaining about a third set of faults but he considered it is not clear that these are related to the previous faults. Nor was he satisfied that Mr S had demonstrated that these faults were inherent faults that were present at the time the car was sold. In these circumstances our adjudicator considered that repair rather than rejection was the appropriate remedy.

Mr S rejected this recommendation. He said, in summary, he considered he could reject the car as it had had faults from the time he bought it. He considered he had never accepted any of the repairs because he had always wanted to reject the car. He explained that he is now paying for a car he does not want, and that he is frightened to drive.

He asked that an ombudsman review his complaint.

my findings

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

Mr S cannot reject the car

It is very clear that Mr S is extremely dissatisfied with his car. He considers he is unfairly paying for something he says he cannot use and he wants to reject the car. I can see Mr S is in a fix and he has written to us in very moving terms about his situation. I do sympathise with him but I can only hold Moneybarn responsible for this if I consider it has done something wrong.

Mr S seems to be suggesting that all the faults that arose with the car were all connected. Further, he says because the car was not repaired correctly despite two attempts then he should be entitled to reject it.

Mr S is right that if the situation was as he describes it then he might still have a right to reject the car. But the difficulty is that I am not satisfied that he has demonstrated that this is the case. I say this because it appears the first faults were present at the point of sale but

the second set of faults may not have been. The information I have seen suggests that the second set of faults may have been due to how the car was used rather than inherent faults.

In any event I am not satisfied that Mr S has shown that the new faults he tells us about are indeed related to the earlier problems he had with the car. Neither has he provided information which I could rely on to safely conclude that the new faults arose because of inherent faults with the car which were present when he bought it. Moreover, I am not satisfied that he has demonstrated that the repairs were not carried out correctly.

Further, I have also taken into account the amount of time that Mr S has had the car and the mileage he has done. I realise that Mr S says he always wanted to reject the car. But I am persuaded that in the circumstances his behaviour indicated that he wanted to accept the car provided it was repaired. In the circumstances I cannot fairly say many months down the line that Mr S can now change his mind and reject the car and the relevant law does not allow him to do this either.

if Mr S is in financial difficulties Moneybarn must respond in a positive and sympathetic way

Mr S indicates he is struggling to pay for the car. This may mean that he is experiencing financial difficulties. If Mr S is in financial difficulties and can't meet his liabilities under the agreement with Moneybarn then it should deal with him sympathetically and positively. However, this is a two-way process and both parties need to co-operate to achieve this. Mr S may now wish to contact Moneybarn directly to discuss his financial circumstances and to decide on an appropriate way forward. This may involve Mr S giving it more detailed information about his overall financial position. If Mr S feels Moneybarn does not treat him positively and sympathetically, he may be able to bring a new complaint to Moneybarn and ultimately to this service about that one limited issue.

my final decision

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

Joyce Gordon
ombudsman