

## **complaint**

Mr J is unhappy with the quality of a van Moneybarn No. 1 Limited (Moneybarn) supplied under a conditional sale agreement.

## **background**

In March Mr J took out his agreement. The following month he got in touch with Moneybarn to say the van had broken down and he wanted to reject it. However, he then agreed to see if it could be repaired. The repairs took some weeks by which time Mr J had lost faith in the van and again said he wanted to reject it.

Moneybarn accepted there had been issues with the van as supplied but believed these had now been fixed. So it didn't agree he could reject it. It appears the van remained at the dealership until August when Mr J collected it. He says it broke down again soon afterwards and he left it at the roadside.

The following month Mr J told Moneybarn where the van was and an inspection took place. This confirmed the engine wouldn't start but concluded the van had covered a significant distance since Mr J acquired it. Moneybarn felt most of this must have happened after the repairs had taken place. So it didn't feel the current problem with the van was present when it was supplied. It didn't agree Mr J should be able to reject the van.

Our investigator identified there were some issues over how the distance had been recorded. The invoice from the dealership and the sale agreement recorded a mileage of around 50,000 which was consistent with the mileage when the van had its last MOT. But the figure in the inspection report was in kilometres (83,000 – around 51,500 miles).

And to travel the miles suggested by Moneybarn Mr J would have had to cover some significant distances on each day he had the van. Mr J provided evidence to show he wasn't required to drive the van for work, hadn't been insured to drive it since May and had used an alternative vehicle ever since it went in for repairs. Taking into account the problem with the van appeared similar to the one Mr J reported when he made his initial complaint our investigator thought it most likely the van wasn't of satisfactory quality when supplied and the repairs hadn't resolved the problem.

Moneybarn didn't agree. It accepted the evidence suggested Mr J hadn't needed to use the van for work and hadn't been in possession of it for the whole of this time. But there was some time after it had been abandoned when it was unclear what had happened. And it drew attention to the engineer's report which said *"if the engine was in its current condition at the point of sale it couldn't have covered 1 mile let alone the reported 30,000 miles"*. So I need to reach a final decision.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

- Moneybarn was required to provide a van of satisfactory quality. And because Mr J raised his concerns within the first six months the onus was on Moneybarn to show that was the case. It doesn't seem to be in dispute there were issues with the van at the point of supply. But Mr J was initially happy for repairs to be carried out to see if that could address these issues.
- Moneybarn believes Mr J then drove a significant distance in the van after the repairs had taken place which shows they were successful. So it thinks the problem with the engine is a new issue. And I agree that if Mr J had driven the reported distance that would support its position. But looking at what's happened I don't think that's likely.
- I've looked at the inspection report on the van which contains photos of the dashboard. I can see the odometer is in kilometres. But it's an electronic display and appears to have the ability to display in either miles or kilometres. Moneybarn told us there was nothing to show the odometer had been altered. However, it's not provided further information from, for example, the van's onboard computer to support this.
- And the invoice from the point of supply records the distance in miles as does the last MOT certificate for the van. I think it's possible that between Mr J obtaining the van and the inspection being carried out the odometer was changed to display the distance in kilometres. That means the van would only have covered around 1,500 miles since Mr J acquired it.
- That's supported by other evidence. It doesn't seem to be in dispute Mr J was working during this time and didn't need to use the van for work. And he's provided evidence to show he had alternative transport since the van went in for repairs. I'm not sure why Mr J would have chosen to drive any significant distance in a van he wasn't insured for when he had an alternative available.
- I recognise the engineer's report says in its current condition the van couldn't have covered 30,000 miles. But for the reasons I've explained I don't think it did. So I think the current problem with the van must be caused by something else. The question is whether that's something that was present from the outset or if it's come about during the time Mr J has had it. And the engineers report says further investigation would be required to find out why the van won't run.
- We asked Moneybarn for more information on what repairs had been carried out to the van by the dealership. We also asked it to get a further report to identify what the underlying cause of the current problem with the van was and how this had come about. Moneybarn said it wasn't able to provide any further information about the repairs and didn't feel it would be appropriate to commission another report.

So I've reached my decision based on the available evidence. It's not in dispute the van wasn't of satisfactory quality when it was supplied. And for the reasons I've explained I don't think Mr J did drive a significant distance in the van after the repairs had taken place. The issues Mr J initially reported with the van included problems starting it and that the engine lacked power. And the current problem is that the engine won't start. Moneybarn has had an opportunity to provide further evidence to demonstrate these issues aren't linked but hasn't done so.

So I don't think Mr J was supplied with a van of satisfactory quality and I don't think Moneybarn has been able to show the repairs that were carried out resolved the problems with it.

### **putting things right**

Moneybarn will need to:

- cancel the conditional sale agreement with nothing further owed;
- accept Mr J's rejection of the van at no cost to him;
- refund the payments he made towards the agreement (including his advance payment);
- pay interest on these amounts at 8% simple per year from the date of each payment until the date of settlement;
- ensure no adverse information is recorded on Mr J's credit file.

I've thought about whether I should make a further award for distress and inconvenience. I appreciate this matter has been quite drawn out. But in large part that's because it took some time for Mr J to collect his van from the dealership and tell Moneybarn where it was after he abandoned it at the roadside. So I think what I've already recommended does enough to put things right here.

### **my final decision**

I've decided to uphold this complaint. Moneybarn No. 1 Limited will need to put things right by doing what I've said.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 12 January 2017.

James Park  
**ombudsman**