

complaint

Miss R complains that a car that was supplied to her under a hire purchase agreement with Blue Motor Finance Limited wasn't of satisfactory quality.

background

A modified used car was supplied to Miss R under a hire purchase agreement with Blue Motor Finance that she signed in November 2018. She says that about five weeks later she returned to the car and found that it had water in it. She contacted the dealer and it arranged for the car to be repaired by a local garage. Miss R was concerned about the damage to the car so complained to Blue Motor Finance. It said that there was no evidence to show that the car was still faulty. Miss R wasn't satisfied with its response so complained to this service.

The investigator recommended that this complaint should be upheld. She said that she had enough evidence to persuade her that the repairs had likely failed and that the subsequent faults reported by Miss R were a direct result from the water ingress. She recommended that Blue Motor Finance should: cancel the finance agreement and collect the car; refund to Miss R the monthly payments she made, less two payments to reflect the use she had of the car; refund her the insurance and road tax costs for the car since she stopped using it in April 2019; pay her £200 to recognise the distress and inconvenience caused; and remove any adverse information from her credit file.

Blue Motor Finance has asked for this complaint to be considered by an ombudsman. It says, in summary, that it doesn't feel that there are any grounds to support rejection of the car. It says that the car has been repaired, inspected by an independent expert, no evidence has been provided of any many electrical issues and it should be allowed an opportunity to repair the issue with the keys. It says that the dealer is willing to collect the car and, if there are any electrical faults following replacement of the battery and re coding of the key, the car will be taken back.

Miss R didn't accept that offer and says that the car is too much of a financial risk for her with the current issues so she wants to reject it.

my findings

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

Blue Motor Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Miss R. Whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to her was about eight and a half years old, had been driven for 57,612 miles and had a price of £19,989. Satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will depend on a number of factors.

The car was supplied to Miss R in November 2018 and about five weeks later there was significant water damage to the inside of the car. I consider that the evidence shows that the damage was caused by water leaking into the car because of a fault with the car's windscreen that was present when the car was supplied to Miss R.

The dealer arranged for the car to be repaired by a local garage. The garage said:

“Currently the vehicle runs and performs normally, this may be a temporary correction only where there is an underlying fault that may occur again, so we’ll keep testing this in the short term. More concerning at this point is the issue over water ingress, this is significant and I’ve attached a couple of photos to show the amount of water collected inside the N/S front & rear footwells”.

Miss R says that the car’s keys don’t work, there are electrical issues and she’s provided photos showing mould growing in the car. She says that she stopped using the car in April 2019 and has stopped making payments to Blue Motor Finance.

Blue Motor Finance arranged for the car to be inspected by an independent expert in July 2019. The expert’s report said that it was clear that the car hadn’t moved in a considerable amount of time and concluded:

“The electrics on this could not be tested due to a flat battery, the windscreen appears at the time of test to have been fitted to a satisfactory standard and no water ingress is present.

The water ingress that was said to be occur due to windscreen issue has in our opinion been rectified successfully, the manufacturer is aware of the situation and has issued an in-service recall i.e. the vehicle is in the full dealer for repairs or warranty work to be undertaken. They will rectify the water leak free of cost i.e. under warranty”.

The report referred to the modifications that had been made to the car. Miss R says that she was aware that the car had been modified before it was supplied to her and I’ve seen no evidence to show that the car has been modified since then. Miss R says that, when the garage reset the engine control unit during the repair, the modifications were affected and that the injectors are now over-fuelling the engine.

The car has been repaired following the water damage but I consider it to be more likely than not that there continue to be issues with the car that were caused by the water damage. I’m not persuaded that it would be fair or reasonable for the car to be repaired again. Given the issues that Miss R has described and the photos of the mould in the car that she’s provided, I understand why she’s lost faith in the car and wants to reject it.

I consider that it would be fair and reasonable in these circumstances for Miss R to reject the car. So I find that Blue Motor Finance should end the hire purchase agreement and arrange for the car to be collected from Miss R. The agreement shows that Miss R a paid a deposit of £500 for the car but she’s confirmed that she didn’t pay a deposit.

Miss R was able to use the car before the water damage and had some use of it after the repairs until she stopped using it in April 2019. She hasn’t made all of the payments that were due under the agreement but I find that it would be fair and reasonable for Blue Motor Finance to refund to her all but two of the monthly payments that she’s made for the car. It can keep the two monthly payments as payment for the use that she had from the car.

Miss R had paid to insure and tax the car even though her use of it has been limited. I agree with the investigator that it would be fair and reasonable for Blue Motor Finance to reimburse

her for those costs on a pro rata basis from when she stopped using the car in April 2019 – but she'll need to provide it with evidence of those costs.

These events have clearly caused distress and inconvenience to Miss R. I find that it would be fair and reasonable for Blue Motor Finance to pay her £200 to compensate her for that distress and inconvenience. I consider that it should also remove any adverse information about the agreement that it's recorded on Miss R's credit file.

my final decision

For these reasons, my decision is that I uphold Miss R's complaint and I order Blue Motor Finance Limited to:

1. End the hire purchase agreement and arrange for the car to be collected from Miss R – both at no cost to her.
2. Refund to Miss R all but the first two of the monthly payments that she's made under the agreement.
3. Reimburse Miss R for the insurance and road tax costs that she paid for the car on a pro rata basis from when she stopped using the car in April 2019 - but she'll need to provide it with evidence of those costs.
4. Ensure that no adverse information about the agreement is recorded on Miss R's credit file.
5. Pay £200 to Miss R to compensate her for the distress and inconvenience that she's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 15 June 2020.

Jarrold Hastings
ombudsman