

complaint

Mr K complains that the car he acquired through a hire purchase agreement (HPA) with Black Horse Limited was mis-sold. He says this meant he lost money when he came to sell the car.

background

Mr K entered into a HPA with Black Horse in February 2016 to acquire a used car. He says the car was advertised as having one previous owner. In 2018, Mr K decided to sell the car and advertised it as having two previous owners. However he says that the purchaser pointed out that the first owner was a car rental / lease company and so the car could have had a number of different owners. He says he had to accept a reduced sales price because of this. Mr K says that had he known the previous owner was a rental company he wouldn't have acquired the car.

Mr K also complains that when he called Black Horse about the issue it didn't provide the service it should have, suggesting that he should have questioned the advertisement.

Black Horse says that Mr K's account was settled in November 2017. It says Mr K contacted it in September 2018, raising his complaint. It says the dealer confirmed that no misleading information was provided at the point of supply and that Mr K was provided with a document showing who the previous owner was. It says he didn't raise any concerns at that time about the car being previously owned by a business. It says there is no evidence that when he went to acquire a car he asked for one that hadn't been previous used for business purposes.

Our adjudicator explained that Section 56 of the Consumer Credit Act 1974 (CCA) says a finance company is responsible for a credit broker's actions prior to the agreement commencing – the antecedent negotiations and that the dealer in this case had acted as the credit broker. He investigated the complaint but wasn't satisfied that a misrepresentation had occurred. Because of this he didn't uphold the complaint.

Mr K didn't accept our investigator's view. He reiterated that the car had been mis-sold as the advertisement didn't disclose the facts about the history of the car.

my findings

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

Mr K acquired a used car from a dealer and financed the acquisition through a HPA with Black Horse. As our adjudicator has explained, the CCA sets out that the finance company can in certain circumstances be held liable for information provided by the dealer at the point of supply if this induced Mr K into entering into the HPA.

In this case Mr K says the car was advertised as having one previous owner. Based on what I have seen I have nothing to suggest the car had more than one previous owner. The issue is that the previous owner was a car rental business. Mr K says this wasn't disclosed and had he known this he wouldn't have acquired the car. Mr K has provided information from the advertising standard agency about its views on disclosing when cars were previously used for business purposes.

I haven't seen a copy of the advertisement Mr K based his decision to acquire the car on and given the time that has passed I understand this isn't available. However, based on Mr K's testimony I accept this didn't disclose the previous owner was a business. That said, as it disclosed a previous owner and this was accurate, I cannot say the previous ownership was misrepresented to Mr K.

Mr K says that he wasn't aware of who the previous owner was until he came to sell the car. However the registration document stated who the car was previously owned by. This was provided at the point of supply and so Mr K should have been reasonably aware of this information at that time and had it concerned him I think it would have been reasonable for him to raise it at the time. I have nothing to suggest that Mr K had told the dealer he didn't want a car that had been previously used for business purposes.

I appreciate this will come as a disappointment to Mr K, but based on what I have seen, I do not find that I have enough evidence to uphold this complaint.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 20 September 2019.

Jane Archer
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