

complaint

Mr M complains that FirstRand Bank Limited (trading as Motonovo Finance), supplied him with a faulty car under a hire purchase agreement.

background

Mr M entered into the hire purchase agreement in May 2012, but says he began experiencing problems with the car within days of taking possession of it. He contacted the dealership and finance provider in June to advise of the problems. The car was given an independent inspection that month, which recommended certain repairs. Mr M returned the car to the dealership for these repairs to be carried out.

However, the day after the car was returned to Mr M, he experienced problems again, which he again referred to the dealer. As nothing was done in response to this, he raised a complaint about the car in September 2012. This was rejected by Motonovo Finance in October on the basis that he had not previously raised the issues and that the repairs had been carried out by an unauthorised provider. Later that month, the car broke down and has been off the road since. In December 2012, Motonovo Finance issued its final response, rejecting the complaint on the basis that the problems were only reported after Mr M had held the car for six months.

Mr M says he has not been able to use the car, stating that the mileage is well below the average level of use, and has had to rely on hire cars. He would like to reject the car and be compensated for the financial loss and distress and inconvenience he has experienced.

The adjudicator recommended that the complaint should be upheld. He was satisfied that the faults with the car were present at the point of sale and that the dealership had had the opportunity to repair them. He noted that the mileage on the car was less than average and considered that the customer service provided by Motonovo Finance to Mr M was poor.

The adjudicator recommended that Mr M should be able to reject the car and have his deposit and all but three payments refunded to him, plus interest. He also recommended that the cost of inspections and use of a hire car should be compensated and that Mr M should receive £150 compensation for the distress and inconvenience he experienced.

Motonovo Finance does not agree, saying that an independent inspection it commissioned did not conclude that the faults were present at the point of sale and would be due to the mileage covered by the car.

my findings

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

Faults with the car

Mr M has provided evidence that he experienced problems with the car very shortly after taking possession of it, and contacted the dealership to have these resolved. The car was given an independent inspection but the repairs were carried out by the dealership. However, the car continued to display the same problems after repair, which were attributed to a "DPF" fault – relating to a filter mechanism.

Motonovo Finance has said that as the repairs were carried out by an unauthorised third party, that Mr M has breached the terms of his agreement and cannot now rely on it. It is not clear on what basis this conclusion was reached. It is evident from the correspondence between Mr M and the dealership that he raised the problems very soon after receiving the car, and that the dealership undertook the repairs. I therefore find that the dealership was aware of the issues, and had the opportunity to fix them.

The car continued to experience faults, leading to it being taken off the road in December 2012 and stored in an undercover car park.

Motonovo Finance has said that the mileage undertaken by the car is the cause of any faults, and that as these are wear and tear, it is not liable for them. Mr M reported the problems with the car straight after taking possession of it, which suggests that even if it was driven extensively by him, that the faults were not the result of wear and tear, but were present at the point of sale.

In any event, the mileage since Mr M took possession of the car is approximately 4,500 miles, which is well below average and is consistent with Mr M's account of his use of the car. Mr M has acknowledged he changed the odometer settings from miles to kilometres, but that this was done using the in-car settings. The engineer's report commissioned by Motonovo Finance has verified that this was most likely done using the car's settings, rather than by replacing the odometer. This report further confirmed that the car was showing signs of having been off the road for "an extensive period of time".

The car manufacturer has confirmed that a DPF part is expected to last the lifetime of the car, subject to outside influence. The engineer's report commissioned by Motonovo Finance concluded that it was most likely the result of wear and tear since Mr M took possession of the car. However, it is clear from the report that the engineer was not aware of the previous repair efforts, and therefore it is likely he was unaware that the problems were experienced from the start of the hire purchase agreement.

As Mr M was only able to drive the car to a very limited degree, I consider it most likely that the faults were the result of previous driving and were present at the point of sale. As the dealership tried, but failed to rectify these faults, I find that Mr M is able to reject the car and receive an appropriate refund for the costs and distress and inconvenience he incurred.

Customer service

I also consider that Motonovo Finance has provided poor customer service to Mr M in dealing with his complaint. It failed to deal with the complaint within a reasonable time and repeatedly dismissed it on the basis of incorrect information. It was aware that as Mr M was incurring monthly charges under the hire purchase agreement and use of a hire car, that its delays were increasing his level of financial loss and accompanying distress and inconvenience. I consider an increased award of compensation for this to be appropriate.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it, I order FirstRand Bank Limited (trading as Motonovo Finance) to:

- Cancel the hire purchase agreement and collect the car from Mr M at no cost to him;

- Refund the deposit of £2,000 paid;
- Refund all but three monthly payments to Mr M;
- Pay 8% interest simple per annum on the above refunds from the date of payment to the date of settlement;
- Reimburse Mr M £120 for the inspection costs;
- Reimburse Mr M £409.16 for the car hire costs;
- Pay Mr M £250 compensation for the distress and inconvenience caused by the poor customer service it provided him.
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Catherine Wolthuizen
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