

complaint

Mr K complains that the car he acquired through a hire purchase agreement (HPA) with Black Horse Limited (the business) was not of satisfactory quality.

background

Mr K entered into a HPA to acquire a new car. The car was delivered in October 2015. A month later Mr K raised concerns about certain features not operating correctly. In December 2015 it was confirmed there were issues with certain features and the car was booked in for repair. However the repairs did not resolve all the issues. Mr K contacted the dealer again about the issues and the car was again booked into for repairs. Mr K says that while his car was in for repair it was misused.

Because of the ongoing issues he had experienced Mr K contacted the business in November 2016 saying he wanted to reject the car.

The business says in its final response letter that having contacted the dealer and the repairing garage the issues related to software updates and not faults. In regard to the stop/start function it says that many factors could affect the performance of this function and that no fault had been found.

The adjudicator said that the evidence showed that there were faults with the car that had existed since the point of sale. She said that repairs had been attempted but these had not resolved the issues. Because of this she recommended that Mr K be allowed to reject the car.

The adjudicator said that Mr K had use of the car and she did not recommend that all his monthly payments be refunded. She also said that she would not expect the business to refund the insurance, tax or service costs.

The adjudicator's recommendation was that the business should:

- cancel the agreement and update Mr K's credit file accordingly;
- refund the deposit of £7,367 with 8% simple interest from 16 October 2015 to the date of settlement;
- refund one monthly instalment in recognition of the time the car was in garages for investigation and repair plus 8% simple interest from 7 October 2016 to the date of settlement;
- pay Mr K £300 for his loss of enjoyment and the inconvenience of having to arrange for the car to be looked at;
- reimburse Mr K £80 for the registration number transfer;
- reimburse Mr K the £80 penalty he says he will incur to cancel his insurance on the provision of a receipt for this.

The business agreed to the adjudicator's recommendation.

Mr K said that the recommendation did not do enough to address the issues he had experienced. He said he had experienced stress for a year in regard to the car and he should be compensated for this.

In regard to specific additional refunds, Mr K said that he should be refunded all monthly payments made from November 2016 (when he requested to return the car) and be refunded the cost of the service he paid for in November.

Mr K said that his insurance costs increased when he changed to the car and he should be refunded this cost as well as the cost of his road tax.

Mr K also said that the £1,500 part exchange amount from his previous car should also be refunded.

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 new car and so it is reasonable that he would expect it to be free from faults, including minor defects. The evidence shows that there were faults with the car from the point of sale and as Mr K acquired the car through a HPA with the business the business is liable to remedy this.

Repairs were attempted to resolve the issues but these were not successful. Due to the ongoing issues and the failed repair attempts, I find it reasonable that Mr K is allowed to reject the car. The business has agreed to this and the other recommendations made by the adjudicator. Mr K says the redress is not sufficient.

I have looked at Mr K's comments in regard to additional refunds and compensation. While I appreciate Mr K's comments about the business not accepting his request to return the car in November, I still find that since then he has had the use of the car. Because of this I do not find that the business is required to repay him his monthly payments. The adjudicator recommended that a month's instalment was refunded for the time Mr K's car was in for repair and I find this reasonable.

Mr K says that his insurance increased and he paid road tax for when he did not have use of the car. However, I find that Mr K chose the car and therefore was required to pay the insurance associated with the car along with the road tax. I do not find that these items need to be refunded.

Mr K paid £299 for a service on the car on 28 October 2016. This was before Mr K contacted the business about returning the car and while I appreciate Mr K's comments in regard to this cost I find that servicing the car was part of the cost of running the car at that time. As Mr K had not asked to return the car at that point, I find that he would have paid this amount even if the business had accepted his request in November 2016. Based on this I do not find that the business is required to refund this cost.

Mr K has experienced a loss of enjoyment and inconvenience through this process. The adjudicator recommended that the business paid Mr K £300 because of this. I find this reasonable.

In regard to the part exchange amount Mr K received for his previous car, I believe this amount is included as his deposit noted in his HPA and so I find this point has been addressed.

my final decision

My final decision is that I uphold this complaint. Black Horse Limited should, as it has agreed:

- cancel the agreement and update Mr K's credit file accordingly;
- refund the deposit of £7,367 with 8% simple interest from 16 October 2015 to the date of settlement;
- refund one monthly instalment in recognition of the time the car was in garages for investigation and repair. This should be paid with 8% simple interest from 7 October 2016 to the date of settlement;
- pay Mr K £300 for his loss of enjoyment and the inconvenience of having to arrange for the car to be looked at;
- reimburse Mr K £80 for the registration number transfer;
- reimburse Mr K the £80 penalty he says he will incur to cancel his insurance on the provision of a receipt for this.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 26 May 2017.

Jane Archer
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