

complaint

Mr L complains about a fault with a car that was supplied to him under a conditional sale agreement with Close Brothers Limited, trading as Close Brothers Motor Finance.

background

A used car was supplied to Mr L under a conditional sale agreement with Close Brothers that he electronically signed in June 2016. He contacted Close Brothers about a warning light the following month – and there were failed attempts to repair the fault. Mr L then wanted to take the car to a manufacturer's dealer for a repair. That happened in November 2016 and Close Brothers, the dealer and Mr L all contributed to the repair cost.

Mr L contacted Close Brothers in April 2018 and said that the same issue had reoccurred. He said that he wanted to voluntarily terminate the agreement but the car's MOT certificate was expiring and the car wouldn't pass an MOT test with a warning light on. Close Brothers said that the car needed an MOT certificate if he was going to voluntarily terminate the agreement. He complained to Close Brothers but wasn't satisfied with its response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. He said that if the issue had remained after November 2016 it would be reasonable to expect that it ought to have been raised or addressed before the matter of voluntary termination was discussed seventeen months later. And he couldn't say that Close Brothers had acted unfairly or unreasonably in handling Mr L's complaint. Mr L has asked for his complaint to be considered by an ombudsman.

my findings

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

There's no doubt that there was an issue with a warning light on the car soon after it was supplied to Mr L. And unsuccessful attempts were made to rectify that issue. Mr L then said that he wanted a manufacturer's dealer to repair the car. That happened in November 2016 and Close Brothers, the dealer and Mr L all contributed to the repair cost.

I've seen no evidence to show that Mr L made any further complaint about that issue until April 2018 - about seventeen months later. So I consider it to be reasonable to conclude that the repair had rectified the issue. And I've seen no evidence - other than what Mr L says - to show that the car's faulty (or that it would fail an MOT test) because of an issue that was present with the car when it was supplied to him.

And I'm not persuaded that it would be fair or reasonable in these circumstances for me to require Close Brothers to take any action about the issue that Mr L reported in April 2018 – seventeen months after the initial issue had been repaired and 22 months since the car was supplied to him.

Mr L has said that he wants to voluntarily terminate the agreement and return the car – but he said that its MOT certificate was expiring and the car wouldn't pass an MOT test because of the warning light. Close Brothers gave him the information that he needed to voluntarily terminate his agreement – but it said that the car would need to have a valid MOT certificate.

The conditional sale agreement requires Mr L: “... *to maintain the car in reasonable order and condition* ...”; and says that on termination of the agreement, the car must be returned: “... *with any registration document, tax disc, MOT certificate and any other documents of title*”.

So if Mr L returns the car – either at the end of the term or as a result of a voluntary termination – he will need to return it with a valid MOT certificate. I can appreciate the frustration that Mr L feels about that but I consider that to be fair and reasonable in the circumstances and I’m not persuaded that Close Brothers has acted incorrectly or that its response to his complaint has been unfair or unreasonable. So I find that it wouldn’t be fair or reasonable in these circumstances for me to require Close Brothers to take any action in response to Mr L’s complaint.

Mr L says that he’s still in possession of the car but that he’s stopped making the payments under the conditional sale agreement. He refers to his sons’ medical issues – for which he has my sympathy – but I suggest that he contacts Close Brothers to discuss his options under the agreement for the car. And if he’s suffering financial difficulties it’s required to respond to those difficulties positively and sympathetically.

my final decision

For these reasons, my decision is that I don’t uphold Mr L’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr L to accept or reject my decision before 10 November 2019.

Jarrold Hastings
ombudsman