

complaint

Mr L's complaint concerns a hire purchase agreement (HPA) that he made with The Asset Exchange Ltd when purchasing a car. He is unhappy with the quality of the car. And also believes that the agreement is invalid, so it's not enforceable.

background

Mr L entered into a hire purchase agreement in May 2015. The agreement was due to last for 36 months.

Mr L says that he has had a number of issues with the car since he took supply of it. He says that he has had to make numerous repairs to it, which he paid for himself. He says the car is now not roadworthy. Mr L doesn't think the car has ever been in an adequate state since he took hire of it.

He's also unhappy that the warranty on the car was only for 6 months. He says he was told by the salesperson that the warranty would cover him for 18 months.

Mr L did accept an offer of £600 that was paid to him after he initially complained. At the time this resolved the complaint. But he says that he has had further problems since he accepted this offer, so doesn't now consider matter the resolved.

The relationship between Mr L and The Asset Exchange has broken down and they have had disagreements of the reviews that Mr L left on social media websites.

Mr L thinks the agreement was invalid because there is an error on it – the registration number of the car is incorrect. So he would like all the money back that he paid towards the agreement. He stopped paying the agreement in October 2016.

The complaint was looked into by one of our investigators. She didn't uphold the complaint. She thought as Mr L had accepted an offer it wouldn't be fair to look again at the issues he raised initially.

She also asked Mr L to provide evidence of the repairs he had to make but she didn't receive anything to show this. So she didn't find there was enough evidence to say the car had been of an unsatisfactory quality at the point it was supplied.

And finally she didn't think that it would be fair to ask The Asset Exchange not to seek to enforce the agreement. She acknowledged the error in the registration number but still felt that it was reasonable to conclude that Mr L had intended to enter into the agreement.

my findings

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

As part of this hire purchase agreement The Asset Exchange supplied the car to Mr L but it retains ownership until all payments are made. It's also responsible for the quality of the car at the point it was supplied to Mr L. But this doesn't mean it's responsible for every problem Mr L has with car during the term of the agreement. So the first thing I need to consider is

whether the problems Mr L says he's had with the car were present at the time it was supplied to him.

When deciding whether the car was of satisfactory quality when it was supplied I've taken into account the age and mileage of the car. According to the HPA and the MOT history I've seen, it had done around 52,000 miles at the time of supply. I know Mr L disagrees with this mileage but I think it's reasonable to use this information to establish the most likely mileage at the time of supply. The Asset Exchange says the first time Mr L told it of problems with the car was in May 2016 – when it received his complaint. This was around a year after the car was supplied. And by 23 May 2016 (according to the MOT history) the car had driven nearly 64,000 miles.

Mr L has said the car was not of satisfactory quality when it was supplied to him but I haven't seen enough to say this is the case. He hasn't provided much information about the repairs or any invoices to show exactly what work has been completed on the car since he's had it. Also I haven't seen any other independent reports to show what repairs have been made to the car. And I think he has had the opportunity to provide information to support why he thinks the car was faulty when it was supplied. Taking all of this into account, I don't find there is enough evidence to suggest that the car was of unsatisfactory quality at the point it was supplied.

Also Mr L bought a used car which had been driven over 50,000 miles. He was then able to drive nearly 12,000 miles before he raised a complaint about the quality of it. So it does seem he had reasonable use of the car. I know Mr L says he had numerous problems with the car since he's had it and currently it's not in good working order. But the information he's given doesn't lead me to think this is because the car was not of satisfactory quality at the point of sale.

When Mr L initially complained he raised concerns about the warranty and upgrade he said he was offered when he entered the agreement. He also said he had problems relating to an unpaid speeding ticket that was linked to the car. I note that he accepted an offer of compensation from The Asset Exchange in August 2016 and he said he considered this matter as closed. But he has since said that because of the continuing problems with the car he now doesn't consider the matter resolved and offered to return the compensation. I am conscious that The Asset Exchange believed the matter was resolved at this point. And in any case I've seen little to support that Mr L was given guarantees or misled about the warranty or upgrade that induced him into the purchase. So I don't think I should uphold this part of Mr L's complaint.

Mr L says that the HPA should be set aside because of the discrepancies in the information included in it. He says the vehicle registration number is incorrect so the agreement isn't valid. I've no power to decide whether the agreement is enforceable or not, only a court can decide that. But I can look at whether The Asset Exchange has acted fairly and reasonably in seeking to hold Mr L to the terms of the agreement.

The only information on the HPA that appears to be incorrect is the last three digits of the registration. The rest of the information – including Mr L's personal details, the make and the model of the car appear correct. I am also conscious that Mr L took supply of and has had some use of the car. So I think it is fair and reasonable for The Asset Exchange to be able to rely on the terms of the agreement that Mr L signed. I'm aware that Mr L strongly feels that this should not be the case. He is free to choose not to accept my decision, and to take his complaint to a court to allow it to decide on the legality of the agreement.

Finally, Mr L has also raised concerns about being asked to remove reviews he left on social media sites and being blocked from posting new reviews. I can see this has frustrated Mr L but having looked at this, I don't think it makes a difference to my overall thinking about his complaint.

my final decision

For the reasons described above 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 31 July 2017.

Daniel Little
ombudsman