

## **complaint**

Miss B complains about a second hand car supplied to her under a conditional sale agreement with Santander Consumer (UK) plc, trading as Santander Consumer Finance, ("SCF").

## **background**

Miss B complains about the quality of a second hand car supplied to her in late June 2015 under a conditional sale agreement with SCF. The price of the car was around £12,300. The car was just over a year old and had been driven around 20,280 miles. It had previously been owned by a hire company. It had a multi point health check before Miss B acquired it which showed that 60% of the brake pads were remaining and the tyre tread depths were over 5mm. But the health check document also said that the car's mechanical and cosmetic condition were commensurate with the car's age and mileage. Miss B experienced several problems with the car very shortly after acquiring it and complained to the dealership ("D") in July 2015 about the brake pads, the bad paint spray and the front bumper. She said that the paintwork had an orange effect on the back bumper, the front bumper paintwork hadn't been completed and paintwork was missing from the front near side bumper.

After driving over 1,700 miles, Miss B took the car to an independent garage for a health check in late July 2015. This recommended a rear brake service, showed the wipers smeared, the tyre tread depth of over 3.45mm, and the front brake pads were 40% worn. The dealership ("D") repaired the wiper blades in August 2015 at no cost to Miss B. D then repaired the wheel arch, the hanger bracket and mats in September 2015 also at no cost to Miss B. D said at that time that the tyres were within the legal limits. By mid-September 2015, Miss B had driven around 4,000 miles. The brake discs then needed replacement in November 2015. Miss B said that there were still paint faults and obtained an estimate in December 2015 to repair the paintwork for £680. Miss B wants SCF to pay for this and for sorting out the car. She also believes that the car had been involved in an accident. She also wants compensation.

The adjudicator didn't recommend that the complaint should be upheld. She concluded that there was no evidence that the brake discs had been faulty at the point of sale. She also noted that the dealership had replaced the wipers and repaired the coat hanger and paintwork on the bumper at its own cost. She said that D had explained that it offered Miss B the opportunity to have someone she knew complete the paintwork on the bumper, but Miss B asked the dealership to arrange this instead. So the adjudicator couldn't fairly ask SCF to pay for this again, as Miss B had already been given the opportunity to have someone she knew do the repairs. She also noted that Miss B hadn't raised the car's previous use as a hire car before January 2016, but she didn't think it was apparent that this would have changed Miss B's decision to acquire the car.

Miss B disagreed and responded to say that the car was not of satisfactory quality as in addition to previous repaired defects, it also needed replacement or repair of the tyres, pads, discs and part of the repaired paintwork was too light a blue and hadn't been done properly. She provided this service with photos of the paintwork. She also believed that the car had been in an accident and hadn't been told about this before acquiring the car.

The adjudicator responded to say that the photos weren't clear. She had also received confirmation from D that the car hadn't been in an accident.

## **my findings**

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

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I note that Miss B had entered into a conditional sale agreement with SCF. Conditional sale agreements are covered by the Sale of Goods Act 1979. The effect of this Act is that the agreement includes conditions that the car will be of satisfactory quality at the point of sale. When considering whether goods are of a satisfactory quality I take into account all of the circumstances including, for example, the age of the car and the mileage it has covered.

I accept that there have been numerous problems with the car, and note that some have been repaired by D at no cost to Miss B. But, I also cannot exclude the fact that the faults with the brake pads, discs and the tyres might have been caused as a result of inevitable wear and tear. I note that the brake pads had 60% wear left at supply. But it's not uncommon when buying a used car to have worn pads. These are generally considered to be wear and tear and with 60% wear left, I don't think that they're actually a fault. I've seen no evidence that the discs were faulty at the point of supply. I also note that Miss B had driven over 4,000 miles when the discs needed replacement. And I note that the tyres were all within the legal limits at the point of supply.

I can also see that Miss B is unhappy with the paintwork. It is difficult for me to see the issues with the paintwork from the photos supplied by Miss B. But I agree with the adjudicator that it wouldn't be fair to ask SCF to pay for the paintwork to be repaired again, as Miss B had already been given the opportunity to have someone she knew do the repairs. D said that Miss B had mentioned that she had a friend who ran a body shop and the dealership was happy for her to obtain a quote for the work from her friend, but Miss B agreed that D could do the work.

I also note that Miss B believes that the car had previously been in accident, but I note that D said that this was definitely not the case.

Miss B also referred in January 2016 to the previous use of the car as a hire car although I note that this hadn't been raised in her original complaint to this service. I understand that the manufacturer's scheme through which the car was supplied offers many former hire cars and cars used by its management. But they are offered with a package of benefits and the car may have been priced competitively to reflect its previous use. I also note that a car valuation guide shows a valuation for a car of the same age and brand as Miss B's car at around £1,000 more than she paid. And in the circumstances of this complaint, it's not clear to me that the car's previous use would have changed Miss B's decision to acquire the car.

I recognise Miss B's strength of feeling and obvious frustration. But, having considered very carefully the circumstances of this complaint, overall, and on balance, I don't consider that I have grounds to find that SCF should pay for the car to be sorted and to pay Miss B compensation. I appreciate that this is not the outcome that Miss B wants. But she doesn't have to accept my decision and may pursue her case by alternative means should she wish to do so.

**my final decision**

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 11 April 2016.

Roslyn Rawson  
**ombudsman**