

Decision No. AK 12/88

Reference No. MVD 215/87

IN THE MATTER of the Motor Vehicle
Dealers Act 1975

AND

IN THE MATTER of a dispute

BETWEEN

[REDACTED]
Purchaser

AND

[REDACTED]
Dealer

BEFORE THE AUCKLAND MOTOR VEHICLE DISPUTES TRIBUNAL

Messrs H.T.D. Knight (Chairman)
R.G. Lewis
A.E. Enting

HEARING at HAMILTON on the 14th day of January 1988

APPEARANCES

No appearance of purchaser
Mr [REDACTED] for dealer

DECISION

This dispute arises out of the purchase of a 1966 Morris Austin 1100 on 6 December 1985 at a price of \$1495.00.

At the time of purchase the odometer reading of the vehicle was 95,581 kilometres. The purchaser complained that certain repairs were required immediately after purchase.

Firstly, the brakes failed on the way to Auckland and on the return journey. The universal joint disintegrated and went through the transmission case. However, the purchaser has not

produced to the Tribunal any parts or reports in respect of the matter. When the case was called on 14 January 1988, he did not appear. The Tribunal notes that this complaint was made well out of time.

Section 98 of the Motor Vehicle Dealers Act provides that the dispute Tribunal shall not exercise its jurisdiction in respect of any dispute under the section 93 of the Act which is the section relevant to this complaint, unless the complaint has been made in respect to Category D vehicle six months after the date of sale.

The purchaser's complaint in this matter was dated 26 October 1987. The sale took place on 6 December 1985 so that the time would have expired on 6 June 1986 and the purchaser was therefore sixteen months out of time with his complaint. The section goes on to provide that if a disputes Tribunal upon an application being made to it is satisfied that a party to the dispute was justified and not making the complaint within the relevant time and that having regard to the interests of the other party of the dispute it's just and reasonable that the dispute should be considered it may inquire into and deal with the complaint.

In the absence however, of any evidence at all for the reason for the failure to bring the complaint in time, the Tribunal considers that in view of the purchaser's failure to prosecute the complaint on the date set for hearing on 14 January 1988, it has no option but to dismiss the complaint which it does.

DATED on this *17th* day of *February* 1988

H.T.D. Knight

H.T.D. Knight
Chairman

R.G. Lewis

R.G. Lewis
Member

A.E. Enting

A.E. Enting
Member