

Decision No.

Ak 34/92

Reference No.

MVD 257/91

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 - Member  
A E Enting - Member

UNIVERSITY OF CANTERBURY

15 MAY 1992

HEARING at AUCKLAND on the 24th day of October 1991

LIBRARY

APPEARANCES

For purchaser: [REDACTED] (on own behalf).  
For dealer: [REDACTED]

DECISION

This dispute arose out the sale and purchase of a 1985 Ford Fairlane motor car. It was a Category D vehicle for the purposes of the Act. It was purchased on 9 July 1991 for \$15,000, with an odometer reading of 123,130 km at purchase.

The purchaser made four complaints, as follows:

1. that the vehicle was shown on the statutory window card attached to it at the time of sale as having two owners when in fact the certificate of ownership showed it to have three owners at the time of sale;

2. that the exhaust system was faulty, the purchaser alleging that it was not up to warrant of fitness standard;
3. that the steering box was defective, the purchaser again alleging that it was in such a condition that it was not up to warrant of fitness standard;
4. that there were two burnt valves which had to be replaced by the purchaser.

In respect of the error on the statutory window notice that the vehicle was a two-owner vehicle when in fact it was a three-owner, the licensee accepted that there had been a misdescription. He stated that the computer had shown the vehicle to be a two-owner vehicle but the manual records, when obtained, showed it to be a three-owner.

The purchaser did not have any evidence to show that there was a difference in value in respect of this particular type of vehicle at that particular mileage between a two and a three-owner vehicle. The licensee submitted that there was in fact no difference and submitted two valuations to corroborate that evidence. The Tribunal takes into account those valuations.

In addition, the Tribunal has used its own experience in these matters, having heard these cases for a period of some 15 years, and with two of its members having had experience in the industry for a considerably longer period than that, the Tribunal is of the opinion that the licensee's submission should be accepted, and therefore that particular complaint is dismissed. This is because the Tribunal finds that there is not a substantial difference between two and three owners of a vehicle of this type and mileage and that there was in fact no difference in value.

Moving to the question of the exhaust system, the purchaser produced at the hearing an invoice from the garage which showed on it:

"W.O.F. REJECT."

It appears that that would not be correct, because on the purchaser's evidence it was a certificate of fitness for a taxi reject which had occurred. The actual reject form was not produced. The invoice goes on to describe that it is work done "as per W.O.F. reject card", but again that would not be correct. The details on the invoice then simply stated as follows:

"POWER STEERING BOX	395.000
REPLACE MUFFLER	218.00".

There were then sundry items making up, together with GST, a total of \$819.56.

At the conclusion of the hearing the licensee submitted in respect of the purchaser's evidence that in fact there was no evidence that anything was required to be replaced other than the muffler, not the whole exhaust system as the purchaser was alleging.

In respect of the power steering box, the licensee correctly submitted that there was insufficient evidence available as to exactly why the repair was carried out.

The purchaser, at the conclusion of the hearing, was informed by the Tribunal that there was a considerable difference between the certificate of fitness test and its requirements and a warrant of fitness, with its requirements.

The purchaser stated that in fact the ACC Testing Station had told him that the vehicle should never have obtained a warrant of fitness.

However, the Tribunal did not have any evidence before it to establish what would otherwise be a hearsay statement.

The purchaser was therefore given until the 4th day of November 1991 to produce to the Tribunals Office such further evidence as he may wish the Tribunal to consider, including the parts and reports in respect of why the power steering box and the mufflers were in fact replaced and whether or not they would meet the warrant of fitness standard.

Turning now to the fourth complaint, namely the burnt valves. The purchaser produced to the Tribunal two burnt valves. These had been replaced because he went to have LPG fitted into the vehicle 4,335 km after purchase. At that time it was discovered that two of the valves were burnt. The purchaser produced a report from the garage stating that the vehicle had been brought into him on 10 October 1991, that is, just over three months after purchase.

It is to be noted that three months is the time limit on a warranty for a Category A vehicle. The evidence of that report was that the vehicle was misfiring completely on No. 2. The two valves were produced to the Tribunal and presumably the one in the worst state of wear must have come from the No. 2 cylinder. The other valve produced showed pitting to the centre of the valve seat, however, that in itself would not necessarily have been sufficient to effect the performance of the vehicle. It certainly would have been prudent to have it replaced, but it would not necessarily have been an essential repair.

However, the repair has been carried out after the vehicle had travelled a considerable mileage after purchase and over three months after purchase, and in respect of a Category D motor vehicle, the Tribunal does not consider that there is in this particular instance sufficient evidence to take the matter back

to the day of purchase. In coming to that conclusion it has taken into account the evidence of the purchaser that there was missing at idle, and the evidence of the parts produced.

The purchaser's complaint in respect of that matter is dismissed.

The Tribunal turns once again to consider the question of the steering box in respect of which the purchaser was given until the 4th day of November 1991 to produce such further evidence as he might wish the Tribunal to consider.


The purchaser did not produce that evidence until March 1992. This evidence was in the form of a report which was dated 12 March 1992, and which is attached to the file. It was from the mechanic who apparently carried out the repairs. The report states that the steering power box was an exchange unit, so that there are no parts available to be produced. In explanation the mechanic said that he would not have replaced the steering box, nor attended to the valve guide unless it was necessary. He stated that it was all done on Ministry of Transport orders, and the motor work was on the advise of mechanics at two large garages.

It is unfortunate that the reports from those garages have not been produced.

The Tribunal is still unable to ascertain exactly why the repairs were carried out, and if in fact the quantum of the repairs is correct.

In these circumstances, therefore, the Tribunal has no option but to dismiss the purchaser's case in respect of the steering box and the valve guide.

DATED at AUCKLAND this 30 day of April 1992

H T D Knight  
Chairman

R G Lewis  
Member



A E Enting  
Member

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