



LAW

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## Claim Checker

Andrew Smith v Local Garage Ltd

## INFORMATION PROVIDED

To allow us to consider your dispute, you provided our Small Claims Advisor with a summary of events pertaining to your situation.

In addition, you have provided the following documents –

- Cash receipt for purchase of a Ford Fiesta vehicle in the sum of £5,000.00 dated 1<sup>st</sup> July 2019.
- Paid invoice from 'Tow-Me Services' in the sum of £150.00.
- Paid invoice from 'Quick Garage' in the sum of £250.00.

## 1 CASE SUMMARY

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- 1.1 You purchased a Ford fiesta vehicle from the Local Garage Company Limited on the 1<sup>st</sup> July 2019. The purchase price was £5,000.00 which you paid in cash. Before you purchased the vehicle you were told by the salesman, Mr Jones, that the vehicle had recently undergone a full service and MOT and that there were no existing problems save for general 'wear and tear' given that the vehicle was some five years old.
- 1.2 Within a day of the purchase, the exhaust system fell from the vehicle. You were able to have the vehicle towed back to the garage by 'Tow-Me Services'. You spoke to Mr Jones and explained what had happened to the vehicle. You asked Mr Jones to fix the problem and/or refund the money you had paid and take back the vehicle. Mr Jones refused to do this and explained that you had purchased the vehicle on a 'bought as seen' basis such any problems with the vehicle were your own.

- 1.3 Consequently, you had the vehicle towed to another garage, 'Quick Garage'. The mechanic at the garage told you that any recent service or MOT of the vehicle would have shown that the exhaust pipe was damaged and needed to be replaced. The garage was able to repair the exhaust system and charged you £250.00 for parts and labour but took three days to do this. You incurred towing costs of £150.00. You also had to travel to work by taxi for the three days in which you were without the vehicle and spent £60.00 on taxi fares. You have therefore incurred costs of £460.00 in relation to a problem which you consider to be the fault of the Local Garage Company Limited.

## 2 RELEVANT LAW

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- 2.1 Your purchase of the vehicle from the garage constituted a contract of sale for the purposes of the Sale of Goods Act 1979. As the vehicle was sold to you in the course of business, the legislation says that the contract included an implied term that the vehicle sold to you had to be of a satisfactory quality.
- 2.2 The only situations in which the implied term as to satisfactory quality would not apply in a buyers favour is either when defect was specifically drawn to the buyers attention before the contract of sale or, when a particular examination by the buyer ought to have revealed the defect in question. The latter would apply only if the buyer exercised an opportunity of examining the goods. Only then would a vehicle be 'bought as seen'.
- 2.3 Furthermore, the Road Traffic Act 1988 also states that a vehicle must not be sold in an un-roadworthy condition.
- 2.4 Where there has been breach of a contract, a buyer can return the goods and ask for a refund or can ask for the defect to be rectified to the extent that the goods are returned to a satisfactory quality.

## 3 CHANCES OF SUCCESS

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- 3.1 Should you bring a claim against the Local Garage Company Limited, whilst success can never be guaranteed, you would have a good chance of successfully recovering a sum of money from the garage. You purchased the vehicle in the course of business such that there was an implied term that it would be of a satisfactory quality. Moreover, you were informed that the vehicle had recently undergone a full service and MOT and relied upon this statement. Given the failing of the exhaust pipe, it can be argued that the vehicle was not of a satisfactory quality when it was purchased.
- 3.2 Due to this breach, you had to pay for the vehicle to be repaired. Furthermore, you incurred towing costs and taxi fares. You should be able to recover the cost of repairs provided the amount you paid was reasonable. Again, you should be able to recover the towing costs and taxi fares as these were incurred as a result of the exhaust pipe falling from the vehicle that was sold to you.
- 3.3 Potential claimants must always be aware of the duty to mitigate. A claimant must be able to show the costs incurred were necessary and reasonable in amount. For example, in relation to the taxi fares, you would need to show that travelling by taxi was your only option and that public transport was not feasible.

## 4 FURTHER INFORMATION

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- 4.1 Should the matter proceed to trial, your claim would be assisted by the following
- 4.2 Any photographs of the exhaust damage to the vehicle
- 4.3 Taxi receipts.

## 5 RECOMMEND ACTIONS

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- 5.1 Before bringing a claim against an individual or firm, it is appropriate practice to send a 'Letter Before Claim' (LBC). This shows that you have tried to resolve the matter without the need to bring court proceedings. **SCS** can send an LBC on your behalf.
- 5.2 If you send an LBC and no response is received, you can issue a claim against the garage in your local court. The garage would then have a period of time to respond to your claim by way of defence. **SCS** can prepare and issue a claim on your behalf.

- 5.3 After issue, you may wish to enter into mediation with the garage to avoid going to a final trial. **SCS** can attend a mediation hearing on your behalf.
- 5.4 After a defence is filed, the claim will be listed for a trial. You will need to prepare a witness statement setting out your claim in more detail and attaching any evidence you would like the court to have sight of. **SCS** can prepare this evidence on your behalf.
- 5.5 At the trial, you will explain your claim to the judge and ask that he enter judgement against the garage stating that it owes you a sum of money. **SCS** can attend this hearing on your behalf.