

Board of Commissioners Ruling

The following case was heard and adjudicated on by the Board of Commissioners in relation to the Consumer Protection Act 2010:

In a ruling pronounced on the 30th August 2018, in the **Case No. CPA.16.301 – T. Bey v. Henrie Fraise Fils & Company (Seychelles) Limited**, the Board of Commissioners of the Fair Trading Commission found the respondent in breach of Section 42(1)(c) of the Consumer Protection Act, 2010.

In a gist, the facts of the complaint giving rise to the case before the Board was that on the 9th of August 2016, the complainant, purchased a Renault Kwid Rxt from the respondent who is the authorized Renault dealer in Seychelles. On the 16th of November 2016, he lodged a complaint at the Commission, claiming that he was encountering issues with his vehicle namely that the car lost power when going uphill when the air-conditioning system was on, there were problems with the brake which made funny noises and the car took time to stop completely, moreover the complainant had learned via internet research that Renault was recalling this batch of cars over a faulty hose clip in the fuel system. The complainant stated that he had taken the car back to the dealership on several occasions but had been told there was nothing wrong with the vehicle and they refused to test the vehicle. The complainant therefore wanted a replacement of the vehicle or a refund of the price he paid. Following an investigation of the complaint, it escalated to the hearing before the Board.

The Board considered the evidence of the complainant, the investigating officer and an expert witness from the Vehicle Testing Station. The expert produced his 1st report where he put the 1st issue in the complaint to rest. With regards to the complaint with the brakes, his report stated that the brakes worked fine although there was a brake warning light which stayed on when you accelerated the car but went off when the accelerator pedal is released. As such, the respondent agreed to and in fact changed the accelerator pedal but the problem reoccurred. The vehicle was tested for a second time and in his second report, the expert stated that a faulty accelerator pedal was diagnosed and subsequently replaced by the respondent and the fault was gone. The expert witness also revealed to the Board that the vehicle had been part of a batch of vehicle that had been recalled by Renault in relation to possible faulty clip which fastens part of the fuel pipe. He noted however that in the complainant's vehicle the fuel pipe had been zip tied to another fuel pipe running close to it and according to him that fix solved the issue of the faulty clip. The respondent later stated that this fix posed no danger and it was not a safety issue.

The Board learnt that a further diagnostic test was conducted by the respondent which picked up a fault with the accelerator pedal once more. The respondent offered to replace the accelerator pedal again but the complainant refused and insisted on a replacement or refund.

In light of all the evidence presented and the submissions of both parties, the Board of Commissioners found the respondent to be in breach of Section 42(1) (c) of the Consumer Protection Act, 2010 in that the complainant did not receive a vehicle that was free of defect. Consequently, the Board ordered the respondent to run a diagnostic test on the vehicle in question to verify whether the problem with the accelerator pedal has been resolved and no warning light is observed. In the instance that the problem is still there the Board has ordered that the respondent refunds to the complainant the sum of SR.226,000 being the price paid for the vehicle.

It is to be noted that the parties are free to appeal against this ruling to the Appeal tribunal as per Section 44 of the Fair Trading Act 2009 and Section 77(1) Consumer Protection Act 2010.

Complete rulings of the Board of Commissioner can be accessed via website (www.ftc.sc) or viewed at the FTC office.