



**IN THE MATTER OF THE *MOTOR DEALER ACT R.S.B.C. 1966 C. 316* and the
MOTOR DEALER CUSTOMER COMPENSATION FUND REGULATION B.C. REG.
102/95, O.C. 271/95**

FILED BY:

Caitlin Bateson

Claimant

INVOLVING:

**Denali Auto Group Ltd.
30680/Cancelled**

Motor Dealer

DECISION OF THE MOTOR DEALER CUSTOMER COMPENSATION FUND BOARD

By way of written submissions.

[1] On April 12, 2017, the claim for compensation from the Motor Dealer Customer Compensation Fund (the "Fund") filed by Caitlin Bateson (the "claimant") was presented to the Motor Dealer Customer Compensation Fund Board (the "Board") for hearing.

Decision

[2] This claim has been denied.

Claim summary

[3] This claim is for \$5,195.69 and is based on the transaction between the claimant and Denali Auto Group Ltd. ("Denali") on January 4, 2016, in which the claimant:

- (a) purchased a 2003 Honda Civic (the "Honda") from Denali for \$2,900 plus taxes for a total of \$3,200. At the time of purchase, it was represented to the claimant that the Honda was in "mint condition", was inspected by the Denali's mechanic and had no problems.
- (b) The next day after the purchase, the brakes went out completely while the claimant was driving. The claimant contacted Denali but received no response from them. The claimant took the Honda to Dan Hansen Auto Repair, who found multiple issues with the Honda, including the malfunctioning master cylinder and the rear brakes at 10% functionality. The claimant paid **\$1,558.39** for the repairs.
- (c) The next week the claimant contacted Denali for compensation for the repairs. After no progress with getting compensation from Denali, on February 4, 2016, the claimant filed a complaint to the Vehicle Sales Authority. The complaint was investigated and, as a result, Denali repaired the brakes, replaced the master cylinder, and paid the claimant \$400 as compensation.

- (d) In June 2016, the claimant took the Honda to Central City Automotive for the repairs twice and paid \$449.55 and \$216.29. After experiencing continued problems with the Honda, on November 23, 2016, the claimant took the Honda to Warren Walker Performance and was advised that the transmission needed to be replaced or rebuilt. The claimant incurred the following expenses: **\$31.39** (inspection), **\$82.32** and **\$57.75** (towing).
- (e) On December 15, 2016, the claimant filed the MDCCF claim application, claiming \$5,195.69 – representing the total amount she spent on the Honda, including the purchase cost (in bold above) less the amount of compensation received from Denali (underlined above).

Legislative authority and the Board’s findings

[4] In reviewing the eligibility of the claimant’s alleged loss, the Board applied Section 5(1) of the *Motor Dealer Customer Compensation Fund Regulation* (the “Regulation”) which outlines the losses eligible for compensation from the Fund with respect to the purchase of a motor vehicle. In addition, section 7(a) of the Regulation stipulates that a claim based on cost, quality or value of a motor vehicle received is not eligible for compensation from the Fund.

[5] The Board reviewed the documents on file, copies of which were provided to the claimant and to Denali at the pre-hearing stage and to which both parties had an opportunity to respond. The documents under review included the Claim Application and the File Note by the VSA Consumer Services Officer.

[6] The Board found that the claim was for expenses related to the cost, quality or value of the motor vehicle. Therefore, the claim is not eligible for compensation from the Fund.

[7] The Board has jurisdiction to assess claims which fall within the specific terms of the Regulation only. Claimants may have other legal remedies available to them and are encouraged to do their own investigations into, or speak with a lawyer about, other possible remedies. Attached is the Vehicle Sales Authority of BC (the “VSA”) Fact Sheet *Where to go for help*.

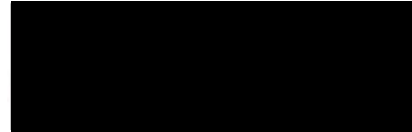
Finality of decision

[8] Decisions of the Board cannot be appealed. According to Section 16(2) of the *Motor Dealer Act*, “A decision, order or ruling of the Board ... is final and conclusive and is not open to question or review in court except on a question of law or excess of jurisdiction”.

[9] **Reconsideration:** The Board may, at its discretion, reconsider its decision. The Board will consider a request for reconsideration from a party to a claim, provided that the request is made in writing and includes relevant evidence that was not previously considered by the Board and was not known or available to the party before the hearing. All parties to a claim will be notified if the Board decides to reconsider its decision. The Board’s policy requires that an application for reconsideration be made within 30 days of the decision.

[10] Judicial Review: The Board's decision may be challenged on a question of law or excess of jurisdiction in the BC Supreme Court pursuant to the *Judicial Review Procedure Act*. According to Section 57 of the *Administrative Tribunals Act*, an application for judicial review must be made within 60 days of the date the decision is issued. We suggest contacting a lawyer to obtain legal advice regarding this option.

Date: May 8, 2017



Darlene K. Hyde
Chair, Motor Dealer Customer Compensation Fund Board

Attachment
DH/af/ag



Where to go for help...

...if you're looking for **legal advice**:

Access Pro Bono

For those that cannot afford a lawyer, legal advice in most areas of law is given through free clinics held throughout Vancouver. Appointments can be booked by calling 604-878-7400 or 1-877-762-6664, or online at www.accessprobono.ca.

Dial-a-Law

A free service available in English, Chinese and Punjabi that offers general information on a variety of law topics. Publications can be accessed online at www.dialalaw.org. Dial-a-Law can be reached at 604-687-4680 or 1-800-565-5297.

Lawyer Referral

Gives the opportunity to discuss a case with a lawyer for up to 30 minutes for a small fee. The consultation will determine if there is a legal problem. The service operates by telephone and can be reached at 604-687-3221 or 1-800-663-1919.

Clicklaw

Provides access to legal information and offers several options on solving legal problems. It is available online at www.clicklawbc.ca.

Legal Services Society

A non-profit organization that provides legal information and advice for low income families. For general inquiries, call 604-601-6000 or access their website at www.legalaid.bc.ca.

Multilingual Legal Website

A new online resource that provides legal information in a variety of languages, such as Arabic, Chinese, English, French, Korean, Persian, Punjabi, Spanish, and Vietnamese. Search publications at www.multilingolegal.ca.

UBC Law Students' Legal Advice Program

UBC law students provide advice under the supervision of a practicing lawyer throughout the Lower Mainland. Call 604-822-5791 to book an appointment or visit their website at <http://www.lslap.bc.ca/main/>.

The Law Centre

The Law Centre provides legal assistance to people in the Greater Victoria area who cannot afford a lawyer. Call 250-385-1221 for further assistance, or visit their website at www.thelawcentre.ca.



Where to go for help...

...if you're looking for **consumer protection information**:

Consumer Protection BC

A non-profit corporation established to strengthen consumer protection in BC. They enforce consumer protection laws (except regarding motor dealers, lawyers and some other professions) and encourage fair business practices. Complaint handling and resource guides are available on their website at www.consumerprotectionbc.ca. They are also accessible at 1-888-564-9963.

Better Business Bureau (BBB)

Includes an accredited business and charity directory, consumer tips, alerts, and guides. Those in the Lower Mainland call 604-682-2711; the rest of BC call toll free at 1-888-803-1222. More information can be found online at www.mbc.bbb.org/consumers.

Canadian Motor Vehicle Arbitration Plan (CAMVAP)

Helps consumers resolve disputes with a manufacturer on vehicle defects or warranty through arbitration. All services are free. To see if you qualify, visit www.camvap.ca or call 1-800-207-0685.

Canadian Consumer Association

Gives information on consumer issues and provides tools and resources. Also offers a step-by-step roadmap on how to make a consumer complaint. Visit them at www.consumerinformation.ca.

Mediate-BC

Specializes in dispute resolution through mediation and offers mediation information and services, as well as a directory of available mediators. They can be contacted by going to their website at www.mediatebc.com.

Office of the Information and Privacy Commissioner for B.C. (OIPC)

Oversees B.C.'s access and privacy acts and works to protect the privacy rights of B.C. residents. They can investigate privacy and access complaints. More information can be found on their website at www.oipc.bc.ca.

Office of the Ombudsperson

Investigate complaints about unfair administrative actions from provincial public authorities. Call them toll-free at 1-800-567-3247 or visit www.bcombudsperson.ca for more information.

Note: This fact sheet provides general information and is not intended to be legal advice.