



**IN THE MATTER OF THE *MOTOR DEALER ACT* RSBC 1996 C 316 and the *MOTOR DEALER CUSTOMER COMPENSATION FUND REGULATION* BC REG 102/95, OC 271/95**

FILED BY:

**Kristel Cassin**

Claimant

INVOLVING:

**Walker Auto Sales Ltd.  
Dealer Licence 40584 / Canceled**

Motor Dealer

**DECISION OF THE MOTOR DEALER CUSTOMER COMPENSATION FUND BOARD**

By way of written submissions.

[1] On December 9, 2022, the claim for compensation from the Motor Dealer Customer Compensation Fund (the "**Fund**") filed by Kristal Cassin (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 \$8,000.00 and is based on the transaction between the Claimant and Walker Auto Sales Ltd. ("**Walker Auto Sales**") on February 14, 2019, in which the Claimant purchased a 2006 Volvo XC-90 (the "**Volvo**") from Walker Auto Sales.

[4] The Claimant noticed the Volvo had an engine problem and so she advised Walker Auto Sales. Though Walker Auto Sales replaced the malfunctioning engine part, the check engine light continued to re-appear.

[5] Eight months and 12,000+kms later, the Claimant was driving the Volvo in Alberta and the engine quit and the car had to be towed. When the Claimant contacted Walker Auto Sales to let them know, Walker Auto Sales instructed the Claimant to pay for the repairs and that Walker Auto Sales would reimburse her.

[6] The Claimant then proceeded to pay for the repairs and Walker Auto Sales never followed through on the reimbursement.

**Legislative Authority and the Board's Findings**

[7] In reviewing the eligibility of the Claimant's alleged loss, the Board applied Section 5(1)(a) of the *Motor Dealer Customer Compensation Fund Regulation* (the "**Regulation**") which determines that losses eligible from the fund must be "*with respect to the purchase of a motor vehicle, the loss of a trade-in, full payment or other liquidated amount...*".

[8] The Board reviewed the documents on file, copies of which were provided to the Claimant and to Walker Auto Sales at the pre-hearing stage and to which both parties had an opportunity to respond. The documents under review included:

- a. Claimant's Allegations Summary,
- b. Demand to Motor Dealer,
- c. Claim Application,
- d. Investigation Report; and
- e. Investigation Cost Recovery Invoice.

[9] The Board found that the claim is not eligible for compensation since the claim is not for a liquidated amount but is based on the Claimant's dissatisfaction with the quality of the Volvo and its mechanical condition at the time of purchase.

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

#### **Investigation Cost Recovery by the VSA**

[11] Pursuant to Section 22(b) of the *Motor Dealer Act* (the "**MDA**"), costs incurred in investigating claims against the Fund must be paid from the Fund.

[12] The Board reviewed the VSA Investigation Cost Recovery Invoice for this claim - Invoice #20265-2. The Board approved the invoiced investigation costs in the amount of \$1,332.72 for recovery by the VSA from the Compensation Fund.

#### **Reimbursement to the Fund by the Motor Dealer**

[13] According to Section 24 of the *MDA*, if a claim is paid out of the Fund, the motor dealer who caused the claim must reimburse the Compensation Fund for the amount paid out of the Fund for the claim and for the investigation costs. The Registrar of Motor Dealers may cancel the dealer licence of the motor dealer who caused the claim if the Fund is not repaid.

[14] Since this claim is denied, the investigation costs will not be charged to Walker Auto Sales.

#### **Reconsideration**

[15] According to Sections 16(2), 18.1 and 18.2 of the *MDA*, 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. An application for reconsideration must be made in writing within 30 days of the decision.

Date: January 4, 2023

#### ***Motor Dealer Customer Compensation Fund Board***

Per:

/Original is signed/

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Ian Moore, Board Chair

Encl.

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