NCAT
NSW Civil & Administrative Tribunal

Quote the number below for all enquiries
Case number **2023/00372771**
Previous case number MV 23/44832

[redacted]

ORDER

Case title ELLEN GALLO v HOUMA HOLDINGS PTY LTD

On 5 February 2024 the following orders (and/or directions) were made:

1 The hearing is adjourned to a date and time to be confirmed by the registrar

2 The applicant Ellen Gallo, is to lodge with the Tribunal, and give to the other party the documents they rely on by 19 February 2024.

3 The respondent Houma Holdings Pty Ltd, is to lodge with the Tribunal, and give to the other party the documents they rely on by 04 March 2024.

4 Documents include Witness statements, Expert reports, Colour photographs, Invoices, Quotations, Chronology, Index of the documents and Contract

5 1. Parties are to put their documents in a folder labelled with the file name, number and the name of the party it is lodged for.

2. All pages must be consecutively numbered.

3. The copies given to the Tribunal and held by the parties must be identical.

4. All documents must be in colour if the original documents are in colour.

5. The Tribunal copy is to be a printed out and lodged at a registry in person or by post.

Reasons for decision:
Ms Gallo appeared at the group list hearing on 5 February 2024 with her partner Mr Pratley. Both persons gave sworn evidence by affirmation. The respondent was represented by Mr Deriviere ("the officer") who also gave sworn evidence by affirmation. The applicant said that in November 2018 she purchased a new Kia motor vehicle from the respondent for $48,975. The applicant said that approximately 18 months after purchase of the car she began to have difficulties with it. She took

the car to the respondent to have it repaired but problems with the car continued. The car at present is with the respondent as the applicant took the vehicle there in December 2023 to be repaired for the most recent defect.

On 23 October 2023 the Tribunal ordered by consent that by 31 December 2023 the respondent replace and install the wiring harness of the radio at the respondent's cost and test the starter motor for any faults. On 8 January 2024 the applicant applied for renewal of the proceedings. At the group list hearing on 5 February 2024, the applicant said that a part used to comply with the order related to the wiring harness was faulty and the car therefore was not roadworthy. In this respect the applicant said that airbags in the car did not work and they were told that by the respondent. The applicant said that she had not been told anything by the respondent about the second order for testing the starter motor.

The applicant seeks an order that she be refunded the purchase price for the motor vehicle on the basis that since she purchased the vehicle she has had problems with it which the respondent has not repaired. In his evidence at the group list hearing, the officer said that a part had been ordered to resolve the problem with the vehicle. The part was expected to arrive on 24 February 2024 and the vehicle would be rectified and tested on 25 or 26 February. On that basis the respondent argues that the motor vehicle is or will be roadworthy.

The officer stated that if the applicant refused to take back the vehicle once the part ordered had been installed then the manufacturer of the vehicle Kia should be joined as a respondent. The applicant made no claims as to what she was intending to do with respect to the respondent ordering a part which would then make the vehicle roadworthy. On that basis, the Tribunal has not made any order that the manufacturer be joined as a party to these proceedings.

P Millar, General Member

Issued: 5 February 2024

For further information about your rights and obligations in relation to this order please read NCAT's Rights and Obligations Guideline available on the NCAT website at www.ncat.nsw.gov.au.