

SOUTH AFRICA / JUDGMENT

TV defective: Consumer abuse (2013114151) [2014]

ZACGSO 8 (1 April 2014)

[2014] ZACGSO 8

COURT

Consumer Goods and Services Ombud

BEFORE

Bonita Hughes

CASE / FILE NUMBER

2013114151

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Goods damaged after delivery (TV)

TV defective: Consumer abuse

Complaint ref :

2013114151

Adjudicator :

Bonita Hughes

Date :

01 April 2014

1. Summary of your complaint

In 2012 you purchased a TV from the supplier . You also paid R759.00 for an extended warranty.

The TV had horizontal lines running across the screen and you reported it to the store.

The store advised that you damaged the TV and is not prepared to repair the TV.

You would like the store to refund you.

2. Summary of the supplier's response

The supplier advised that the item was declared faulty due to customer neglect and therefore cannot repair or replace the TV.

3. Assessment

We have considered all the evidence presented by both you and the supplier and advise as follows:

You state that the TV broke due to no fault of yours. The supplier however advised that the defect is as a result of customer abuse.

In light of the above, it appears that there is a dispute of fact between your version of events and that of the supplier.

On the one hand you claim that the TV broke due to no fault of yours. On the other hand the supplier claims that the defect is as a result of customer neglect.

In trying to reach a decision in cases where there is clearly a dispute of fact we need to look at all the evidence in support of each version and weigh this up against each other to establish which is correct, alternatively which is more probable.

The supplier provided our office with a repair report from the manufacturer. In terms of this report TV was damaged due to customer abuse.

Our office however decided to get the TV inspected by an independent third party who specialises in damaged TV's. The TV was

inspected by Joe Berinato from ItalVideo. ItalVideo provided our office with a report, kindly see attached report. In terms of this report the TV had physical damage.

4.

Conclusion

On a balance of probabilities we can therefore conclude that the TV was damaged due to some sort of customer negligence.

In terms of Section 56 of the Consumer Protection Act one cannot claim to have the TV replaced or repaired as the goods have been altered contrary to the instructions. The warranty also does not cover goods if they were damaged due to a customer's own fault.

There is thus no legal basis upon which we can instruct the supplier store to repair / replace or refund you for the TV.

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ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZACGSO/2014/8.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/tv-defective-v-consumer-abuse-unknown-topic-acgso-2014>

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