

**TEXAS DEPARTMENT OF MOTOR VEHICLES
CASE NO. 18-0186507 CAF**

**SHUNDRELLA WILSON,
Complainant**

v.

**MITSUBISHI MOTORS NORTH
AMERICA, INC.,
Respondent**

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BEFORE THE OFFICE

OF

ADMINISTRATIVE HEARINGS

DECISION AND ORDER

On May 8, 2018, Shundrella Wilson (Complainant) filed a petition seeking relief pursuant to Texas Occupations Code § 2301.204 (Warranty Performance) for alleged warrantable defects in a motor vehicle manufactured by Mitsubishi Motors North America, Inc. (Respondent). Complainant sought to have the vehicle repaired but did not appear at the hearing to provide testimony to support her complaint. Respondent filed a motion to dismiss the complaint based on Complainant's non-appearance. Based on the circumstances, good cause exists to grant Respondent's motion to dismiss the complaint.

I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION

The hearing in this case convened and the record was closed on October 31, 2018, in Austin, Texas before Hearings Examiner Edward Sandoval. Complainant did not appear and was not represented at the hearing. Jason Meise, District Parts and Service Manager, appeared and represented Respondent.

On August 3, 2018, the staff of the Office of Administrative Hearings (OAH) issued a Notice of Hearing to the parties advising them that a hearing was scheduled on Complainant's Warranty Performance complaint on October 31, 2018, giving all parties not less than 10 days' notice of hearing and their rights under the applicable rules and statutes. The notice stated the time, place and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; particular sections of the statutes and rules involved; and the matters asserted. The Notice was mailed via certified mail, return receipt requested, to Complainant at 2201 Holly Springs Dr., #B, Taylor, Texas 76574. The Notice was received by Complainant as evidenced by the signed return receipt.

II. FINDINGS OF FACT

1. Complainant filed a Warranty Performance complaint alleging defects in her 2015 Mitsubishi Outlander Sport on May 8, 2018.
2. On August 3, 2018, the staff of the Office of Administrative Hearings (OAH) timely mailed a Notice of Hearing by certified mail, return receipt requested, to Complainant's mailing address at 2201 Holly Springs Dr., #B, Taylor, Texas 76574. The Notice of Hearing contained information regarding the date, time, and place of the hearing, the statutes involved, the legal authorities under which the hearing would be held, and the matters asserted.
3. The Notice of Hearing also informed the parties on page two (2) that their failure to appear will not prevent the hearings examiner from issuing a decision and order granting relief to an appearing party.
4. The hearing on the merits convened on October 31, 2018, in Austin, Texas, before Hearings Examiner Edward Sandoval. Complainant did not appear and was not represented at the hearing. Jason Meise, District Parts and Service Manager, appeared and represented Respondent.
5. Respondent moved for dismissal of Complainant's Lemon Law complaint, since Complainant failed to appear to offer testimony.

III. CONCLUSIONS OF LAW

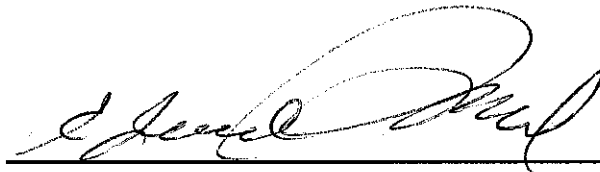
1. The Texas Department of Motor Vehicles (Department) has jurisdiction over this matter. Tex. Occ. Code §§ 2301.601-2301.613 (Lemon Law).
2. A hearings examiner of the Department's Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a decision with findings of fact and conclusions of law, and the issuance of a final order. Tex. Occ. Code § 2301.704.
3. Complainant timely filed a complaint with the Department. Tex. Occ. Code § 2301.204; 43 Tex. Admin. Code § 215.202.
4. The parties received proper notice of the hearing. Tex. Gov't Code §§ 2001.051, 2001.052; 43 Tex. Admin. Code § 215.206(2).

5. Procedures in the hearings, except where otherwise provided by the Department's rules or in the notice of hearing, shall be insofar as reasonably practicable in accordance with the Texas Rules of Civil Procedure applicable in district and county courts in civil actions heard before the court without a jury. 43 Tex. Admin. Code § 215.42.
6. A case may be dismissed for want of prosecution on failure of any party seeking affirmative relief to appear for any hearing of which the party had notice. Tex. R. Civ. P. 165a.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** that Complainant's petition for relief pursuant to Texas Occupations Code § 2301.204 is hereby **DISMISSED** for want of prosecution.

SIGNED October 31, 2018



**EDWARD SANDOVAL
CHIEF HEARINGS EXAMINER
OFFICE OF ADMINISTRATIVE HEARINGS
TEXAS DEPARTMENT OF MOTOR VEHICLES**