

The complaint

Mr L is unhappy with charges invoiced for damages to a car at the end of a hire agreement provided by Mitsubishi HC Capital UK Plc ('MCUK')

What happened

In November 2018 Mr L took a hire agreement with MCUK to acquire a new car. The agreement was initially taken over three years.

In November 2022 the car was returned and an inspection took place. This inspection noted the following damage and costs which Mr L was invoiced for:

- Rear lamp unit right – scuffed - £133.53
- Front door right – dirt in paint/poor repair - £140
- Front wing right – dull paint/poor repair - £140

Mr L was unhappy with this and complained to MCUK.

MCUK issued its final response in December 2022. This said, in summary, that it was happy having reviewed photos from the inspection that all of the damage fell outside of the British Vehicle Rental and Leasing Association's ('BVRLA's') guidance to fair wear and tear. It confirmed Mr L had a balance to pay of £413.53.

Mr L remained unhappy and referred the complaint to our service. He said the car was immaculate apart from a fine scratch on a light which should be fair wear and tear. And he said no repairs had been completed on the car, so any paint work issues were there from new.

Our investigator issued an opinion. In summary, he explained he thought the damage to the light and the front door fell outside of fair wear and tear guidance. But, he said he didn't think this was the case with the wing. So, he said Mr L shouldn't be responsible for this.

MCUK responded and disagreed. It said in the photos of the wing from the inspection, it could be seen the paint finish was dull.

Our investigator responded to MCUK and explained he still didn't agree on this point. MCUK then got in touch and said it was willing to accept the view if this would resolve the complaint.

Mr L got in touch and said he accepted the charge for the light, but not for the paintwork.

As Mr L remained unhappy, the case was passed to me to decide.

I sent Mr L and MCUK a provisional decision on 12 October 2023. My findings from this decision were as follows:

Mr L complains about charges at the end of a hire agreement. Entering into regulated hire agreements such as this is a regulated activity, so I'm satisfied I can consider Mr L's complaint about MCUK.

I've firstly considered if MCUK could charge Mr L for damages. Looking at the terms and conditions he signed, these said Mr L agreed to:

"keep the vehicle in good condition and repair. You will be responsible to us for any damage caused to or deterioration of the Vehicle otherwise than through fair wear and tear as indicated in the guidelines issued from time to time by the British Vehicle Rental and Leasing Association"

So, I'm satisfied Mr L agreed to be charged for any damage to the car outside of the BVRLA's guidance.

I've then considered the areas Mr L was charged for.

In relation to damage to the light, the BVRLA says:

"Minor scuff marks or scratches of 25mm or less are acceptable"

Looking at the photos of the rear light, I can see two obvious scratches, both of which are over 25mm. It follows I'm satisfied this falls outside of fair wear and tear.

In relation to the paintwork, the BVRLA explains:

"Obvious evidence of poor repair, such as flaking paint, preparation marks, paint contamination, rippled finish or poorly matched paint, is not acceptable"

Looking at the photos of the front door, I can see what appear to be marks under the paintwork. These areas can be seen reflected in the zebra board in both 'close up' photos of the door. I'm satisfied this damage falls outside of wear and tear.

Our investigator thought the damage to the wing shouldn't be charged for. But, having carefully considered this, I don't agree. There are two key photos of the wing.

One shows a relatively small badge. Around the edge of this badge, I can see quite clear variations in the paint work. And the area around the badge reflects differently in the zebra board compared to paintwork further out.

The other photo shows a vent near the wheel. Directly to the left of this, the paintwork appears to vary down the side of the vent and marks can be seen. Looking at the zebra board again, there is a clear difference between the reflection of the paintwork to the right and left of the vent. The reflection on the left side is much duller, with a slightly 'smoky' appearance compared to the other side.

Finally, although only one area can be seen in each photo, looking at the picture of the whole car, it appears the badge is directly over the left hand of the wing – so this could point towards a repair from a single incident.

Thinking about all of this, I'm satisfied the damage to the wing also falls outside of fair wear and tear.

I've then carefully thought about what Mr L says here. He said the car was never repaired when he had it – so any paintwork issues must have been from the factory. I've carefully

weighed up his testimony. I also understand the difficulty in providing any evidence that would show the car wasn't repaired while he had it. And, I accept it's possible that the car could've been repaired before he acquired it – for instance at the factory or after shipping.

But that being said, in the absence of evidence either way, I need to consider what, on balance, I think is most likely. Having done so, I think it's more likely that the damage occurred in the four years Mr L had the car and it covered over 30,000 miles, as opposed to the damage and a repair taking place before he acquired it.

So, in summary, I'm satisfied MCVK are entitled to charge Mr L for any damage that falls outside of the BVRLA's guidance to fair wear and tear. And, I'm satisfied all of the damage Mr L was charged for did fall outside of this guidance.

I gave both parties four weeks to respond with any further information or evidence.

MCVK didn't reply.

Mr L came back and said he was unhappy with the decision. He said "*magic and trickery*" had been used to find the damage. He said his car was in perfect condition and returned under the mileage allowance. Mr L also said he'd like to see proof that the repairs that he was invoiced for were actually carried out.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've carefully thought about all of Mr L's comments in response to my provisional decision. Most of what he's said has already been addressed, so I won't repeat myself here. But I will point out the use of zebra boards during inspections is standard and I do not agree this is 'trickery'.

In relation to Mr L wanting to see evidence of repairs, I don't think this is reasonable. This is because the BVRLA explains:

"Charges can still be applied at end of lease in cases where the leasing company decides for commercial reasons not the repair damage"

In this case, Mr L would've been charged for the estimated loss of value of the car, not for the repairs themselves. Either way, this would be fair and reasonable and in line with the BVRLA guidance. So I don't think MCVK need to provide more information or evidence at this point.

I've thought again about all of the other information and evidence on the case. Having done so, I still think this complaint should not be upheld. This is due to the same reasons I explained in my provisional decision and set out above.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 22 December 2023.

John Bower
Ombudsman