

The complaint

Mr S complains that Compare Your Car Lease Ltd ("CYCL") has unfairly charged him a cancellation fee when he cancelled an order for a car hire agreement it was handling for him as a broker.

What happened

In February 2023 Mr S says he was looking for a car hire deal with the help of his brother. They approached CYCL who are a broker firm that assist their customers with finding car leasing options. The cost of hiring a particular car within a monthly budget was discussed and an order for a car was placed. A finance application and a credit check form was completed providing Mr S's personal and financial details and submitted to CYCL's lending panel.

This application form set out that the decision to approve for credit would be for the lender. It also set out that CYCL charged a processing fee for its services which represented the cost of ordering the vehicle with their nominated supplier. The form also stated that if an order was cancelled, then a cancellation fee of £600 may be charged in respect of the service rendered but this did not affect the customer's right to cancel their finance agreement within any given cooling off period.

CYCL facilitated a finance application for Mr S to a credit finance company who approved his application and offered him two options for a car hire agreement. One had a monthly payment of around £395pm without a deposit and the other for around £375pm with a deposit of £800. Mr S confirmed to CYCL that either option would be suitable for him and so CYCL proceeded with the application.

As Mr S had been approved for finance, CYCL asked him to pay the administrative fee of £1,200 (although Mr S actually it paid £1,300 likely in error).

A link for the finance agreement to be e-signed was sent by the credit finance company to Mr S but there were errors on the agreement's figures as it showed a monthly cost of over £455pm. A corrected agreement was sent out a few days later in respect of paying around £375pm for the personal hire agreement. However, Mr S says the credit finance company provided him with a number of agreements, but all had the wrong figures. He says he asked CYCL to find a replacement car that was within the same parameters as the original agreement, but that it wasn't able to do so as it said the vehicle's price had increased

Mr S says as CYCL wasn't able to honour the original agreement, he sought to cancel. But CYCL says Mr S had agreed to proceed with the second corrected credit agreement which showed the correct figures. It says Mr S then became uncontactable. CYCL says it then received a cancellation request from him.

Mr S asked for his administration fee to be returned in full. CYCL said it was willing to return this amount less the £600 cancellation fee as per its terms and conditions.

Mr S complained to CYCL about its decision to charge a cancellation fee. CYCL didn't

uphold his complaint and so Mr S made a complaint to this service.

Our investigator didn't recommend that Mr S's complaint should be upheld. She said she hadn't seen evidence that CYCL wasn't able to honour the original contract and thought that it was willing and able to meet it. Our investigator also said that she was satisfied that Mr S and his brother were together engaged in the process of seeking a car hire agreement for Mr S and were disclosing information to each other and acting in each other's interests. She said it was fair for Mr S to be bound by the terms and conditions of the agreement with CYCL. And that CYCL wasn't acting unfairly by charging Mr S the cancellation fee.

Mr S disagreed with our investigator's view. He said it was his brother who completed the form for CYCL and he was unaware of the terms and conditions that applied to that agreement. He says his brother wasn't authorised to act for him.

As the parties were unable to reach an agreement the complaint has been passed to me.

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.

There are rules under which this service must operate. And under these rules I may only consider complaints that a business has already had an opportunity of investigating. I can't see on the evidence that has been provided that Mr S has raised with CYCL that his brother didn't have the authority to act on his behalf and didn't have his permission to complete and submit the finance applications and credit check form. These appear to be new matters and so he will need to raise them with CYCL first for it to investigate, I can't consider them. If Mr S makes that new complaint and subsequently is unhappy about any response given by CYCL, then he can of course bring a new complaint to this service.

So, I'm looking only at the issues raised in Mr S's original complaint as to CYCL and to which it responded in its final response letter. That is, it had acted unfairly in charging him a cancellation fee.

When considering complaints I will consider the applicable law and regulations, guidance and good practice. And where evidence is missing or contradictory, then it is for me to decide what I think is the most likely thing to have happened.

Here, although I've seen that Mr S's brother was involved in the search for a competitive car hire agreement, I think it's more likely than not that Mr S was also fully included and made the decisions. I've seen that the finance application and credit check form had all of Mr S's personal details including his bank details, and is purported to have been signed electronically by him. I haven't seen any evidence that would suggest he wasn't aware of the form, its purpose or of its terms and conditions which are set out clearly on page one.

So, I think it's reasonable to say that Mr S should have been aware that there were terms and conditions that applied to his agreement with CYCL which included a cancellation fee could be applied should he pull out. And that by completing and sending the form to CYCL, he had agreed to be bound by the terms and conditions.

I appreciate Mr S described the monies he'd paid as a deposit, but this was for the administration fees. I haven't seen anything that would suggest Mr S was misled as to what this amount was for, and as he didn't actually sign the finance agreement for the car, then there wouldn't have been a deposit payable for the car.

Mr S says that the reason he wanted to cancel was because CYCL wasn't able to match the original price as agreed for the car as there had been an increase in its cost. But although I've seen Mr S raises this in emails to CYCL, I haven't seen anything from CYCL that confirms it was unable to match the original hire costs that had been quoted. CYCL says that Mr S agreed to proceed with the finance offered by the credit finance company and then later couldn't be contacted. Looking at the evidence I can't reasonably say that CYCL wasn't able to fulfil the original offered costings in respect of the car hire agreement.

As I think CYCL had undertaken work for Mr S by seeking and arranging finance for him, then I think that's its fair for it to charge him a cancellation fee as per its terms and conditions. Mr S has queried why there was no 14-day cooling off period, but this cancellation fee didn't impact any cooling off period for a finance agreement. And as set out above, I think here the cancellation fee was fairly applied.

For the reasons set out above, I don't think CYCL has acted unfairly and I'm not upholding Mr S's complaint.

My final decision

As set out above, I don't think CYCL has acted unfairly in applying a cancellation fee of £600 in respect of its agreement with Mr S. I am not upholding his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 February 2024.

Jocelyn Griffith
Ombudsman