

The complaint

Mr H has complained about the way ALD Automotive Ltd t/a Kia Contract Hire (ALD) administered a hire agreement he'd taken out to acquire a car.

What happened

Mr H entered into a hire agreement with ALD in March 2019 to acquire a new car. He made an advance rental payment of around £3,800 and he was required to make 47 further repayments of around £425. The hire agreement set out the duration was for a fixed period of 48 months and that the first regular hire payment would be due during the month after delivery of the vehicle.

The agreement set out that although Mr H didn't have a statutory right to terminate the agreement before the end of the fixed period of hire, he could request early termination. ALD wouldn't withhold consent, but it said it would be entitled to charge an early termination fee reflective of its expected costs. It said it would provide a quote upon request.

Mr H said he returned the car a month prior to the end of the agreement – the end of February 2023. He said the car was checked and returned without penalty, but ALD still asked him to pay for the final month's hire agreement repayment even though he no longer had the car. He complained about this. He said he was also told he wasn't entitled to bid for the car and that it must be auctioned. He said he later found out the car was taken to a local dealer and put up for sale. So he said he was misinformed.

ALD said all the payments remain due, and that the February 2023 payment was the final payment within the agreement. ALD said the car was returned at the end of the term as opposed to through early termination. ALD said even if Mr H had early terminated the agreement, by the time he did that, the February 2023 payment was already due. It said it can agree to collection in the month prior to the contract ending but this doesn't stop the final payment becoming due. Mr H said ALD's communication was poor, and he highlighted he'd returned a car a month early; it had low mileage; and it was in pristine condition. So ALD wouldn't incur extra costs.

ALD sent a final response but didn't uphold the complaint. It highlighted all invoices were raised and due by the point Mr H decided to hand back the car. It said Mr H chose the mileage limit and there were no clauses that offer a reimbursement if the maximum mileage isn't utilised. Mr H referred his complaint to our service to consider.

Our investigator looked into things but didn't uphold the complaint. He thought that ultimately the final payment had become due. And that ALD was able to choose how it disposed of the car once it was returned.

Mr H didn't accept the assessment. He reiterated ALD didn't send him an early termination confirmation in February 2023. He said there was a lack of communication. He explained again the car was returned with lower mileage than expected, and in pristine condition. He also said he was unhappy ALD misled him about what would happen to the car once it was returned.

As things weren't resolved, the complaint has been passed to me to decide.

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 want to acknowledge that I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to resolve complaints quickly and with minimum formality. I want to assure Mr H and ALD that I've reviewed everything on file. If I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Mr H acquired the car using a regulated consumer hire agreement and our service is able to consider complaints relating to these sorts of agreements.

The agreement required an advance payment followed by 47 further payments. I understand the agreement commenced in March 2019 so 47 months from then takes us to February 2023. ALD has shown us the final invoice was raised on 1 February 2023 (even though the direct debit wasn't due to go out until later that month). Given Mr H asked to return the car after the final invoice was raised, and the car was returned on 28 February 2023 ALD has said this was an end of contract collection rather than an early termination. It said it could only quote for an early termination if two or more payments were yet to generate. But as the final payment had already been generated by the time Mr H had asked to hand the car back there was no way for it to quote for an early termination. This would explain why ALD didn't send Mr H an early termination quote in February 2023.

Mr H has said ALD was able to quote for an early termination in 2022, but in line with what I've said above, this was because more than 2 payments were due. Based on the evidence I've seen, I think ALD's explanation is broadly fair, and in line with the agreement Mr H entered into.

I've also reviewed the terms relating to early termination from the hire agreement. These say that Mr H was able to request an early termination at any point during the fixed period. And that ALD would charge Mr H the lower of:

1. *100% of the remaining unbilled rentals less any benefits accruing to [ALD] in consequence of any such early termination or;*
2. *50% of the remaining unbilled rentals.*

The terms also say early termination doesn't reduce or affect any existing liabilities. Seeing as though all the rentals had been billed by the time Mr H wanted to hand the car back, I don't think ALD has acted unfairly in the way it's administered the final payment that was due. But of course I can understand why Mr H thinks he's lost out by handing the car back earlier than he had to. I can appreciate Mr H thinks ALD should have made things clearer.

ALD said even though the contract ended towards the end of March 2023 it was able to arrange collection before this for convenience of the customer. I don't think it's extraordinary for a customer to wish to hand back a car prior to the final day of the contract term if, for example, they're going away or have another vehicle lined up. I understand Mr H wanted to hand the car back because he'd acquired another vehicle. Perhaps Mr H's situation is at the extreme end because he handed back the car around a month before the end of the contract term. But I don't think it was unfair of ALD to collect the car when it did. ALD said it can't find record Mr H told it he'd be cancelling his direct debit. And I've not seen sufficient evidence Mr H was told he wouldn't have to make the final repayment.

I also take on board the fact Mr H returned the car in pristine condition with lower mileage than expected. But there's no terms in the agreement that allow for a reduction to be made, or for ALD to be required to reimburse Mr H anything on that basis. This is common practice on car finance agreements.

While I sympathise with the situation, I don't find I have the grounds to direct ALD to write off or reduce the final payment that had become due before Mr H returned the car.

I can also understand why Mr H might've been dissatisfied with the information ALD gave him about what would happen to the car once it was returned. If he was misinformed that must have been frustrating for him. Mr H says he was misinformed, but ALD says he wasn't. I can't generally hold ALD responsible for any misinformation from the dealer, but Mr H has said ALD also misinformed him itself. It's difficult to reach firm conclusions on this point without supporting evidence. Moreover, while I take on board what he says, unlike with a hire purchase agreement for example, there's nothing in the agreement that gives Mr H the option to buy the car from ALD. And it's not clear any alleged misinformation caused Mr H any significant detriment given he's told us he was in the process of acquiring another car. So I'm not going to make any directions for the alleged misinformation.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 15 January 2024.

Simon Wingfield

Ombudsman