

The complaint

Mrs W complains about the actions of RCI Financial Services Limited regarding a battery hire agreement for her electrical car.

What happened

Mrs W entered into a three year hire agreement for a battery for her electrical car with RCI in September 2019. RCI got in touch with Mrs W in May 2022 about the end of the contract. Mrs W was happy to continue with the agreement but had some questions about it. These were to do with reducing the annual mileage permitted under the agreement and reducing the monthly fee accordingly. Mrs W didn't receive a satisfactory response to her request and complained to RCI in August.

RCI upheld Mrs W's complaint and apologised for the way it handled her queries about the agreement. It sent her a final response letter on 24 August in which it explained that the agreement continues to roll on until she either paid the battery purchase price or sold it to a third party. RCI also told Mrs W that her payments would remain the same unless there were any changes in the mileage.

Based on Mrs W's choice to reduce the annual mileage from May 2022, RCI agreed to:

- Amend the annual mileage in the agreement from 12,000 (equating to unlimited mileage permitted) to 7,500 miles per annum;
- Charge Mrs W a reduced monthly payment going forward, in other words from September 2022;
- Refund the difference in monthly payments for May to August;
- Not charge Mrs W any excess mileage fee regardless of the return mileage recorded when the battery was either returned or the agreement ended.

Mrs W accepted this resolution to her complaint. RCI said that it needed a new signed agreement from her as the original agreement term had ended. It had sent Mrs W a number of revised agreements by October 2022. However, Mrs W found that the agreement wasn't amended to her satisfaction and she didn't wish to sign it. She told us that there was no explanation from RCI as to why the revised agreement amended the annual mileage from Sept 2019 (when she'd purchased the vehicle) and not May 2022, or why it continued that to state that excess mileage charges would apply.

RCI has continued to charge Mrs W at the original, higher monthly rate, though I understand it refunded the difference in the rates for the months of May to August 2022.

Mrs W referred her complaint to us as she remained unhappy with how RCI implemented the resolution it proposed in its final response letter. Our investigator looked into things for her but found that RCI had offered a fair resolution to her complaint and didn't uphold it.

Mrs W remained unhappy and asked for her complaint to be reviewed by an ombudsman and it came to me.

I issued a provisional decision on 20 June 2023 explaining why I wasn't planning to uphold Mrs W's complaint. I allowed some time for both parties to provide further comments or information they wished me to consider when making my final decision on this matter. RCI didn't have any further comments. Mrs W provided a detailed response to my provisional decision. I want to reassure Mrs W that I have considered everything she's said when making this final decision. If I don't refer to it in my draft or if I haven't expressed things as she would wish, it is because I have focussed on what I think are the relevant points to include here, bearing in mind this Service's informal remit.

Mrs W summarised her response by asking that RCI:

- *“Provide an email address I can send the signed revised agreement (with items crossed out and/or amended by myself as suggested) as I note their website has changed and I have no idea to whom I should send it to so it is actioned.*
- *Confirm within how many days of me doing this they will refund the current £300 owed (based on overpayment Sept 2022 to June 2023) plus the difference in the July payment if that is taken in the meantime.*
- *Confirm from when they will amend the monthly payment to £78.98.*
- *Confirm when additional compensation will be paid (as I believe they should as the reason we are where we are is purely down to the lack of communication and explanation from them).”*

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 have considered everything again including what Mrs W said in response to my provisional decision and my view remains unchanged. I appreciate that this will be very disappointing news for Mrs W. I'll set out again the reasons why I'm not upholding her complaint in this final decision.

When Mrs W referred her complaint to us she said that in order to put things right for her she wanted RCI to send her a revised agreement or an addendum to that agreement that she could sign. Mrs W asked that RCI sent, via letter, confirmation that excess charges would not apply in advance of her signing any revised agreement, if that agreement continued to state that excess mileage charges would apply.

As mentioned, RCI has provided Mrs W with an amended agreement which stated the contractual mileage as 7,500 along with the new, lower monthly payments of £78.98. The agreement still included Clause 4 which stated “If you exceed the Maximum Contractual Mileage (as appropriately pro-rated if the hiring ends early) you will be in breach of this Agreement and will have to pay a Hiring Excess Mileage Charge of £8.00 for every 100 miles or part thereof”.

RCI told us that the agreement is in effect a continuation of the initial lease agreement but with an amended mileage allowance and the relevant reduction in the monthly payment. It said that the contract was a standard templated contract and the wording could not be amended. RCI pointed out that its final response letter to Mrs W said that it would not charge any excess mileage fee regardless of the return mileage recorded when the battery was either returned or the contract ended. The final response letter also stated that full notes had been recorded on Mrs W's file to avoid any discrepancies arising in the future.

RCI agreed that Mrs W could attach a copy of the final response letter to the signed

amended agreement and add an additional comment to it, or cross out the part relating to excess mileage on the contract prior to signing it. Mrs W told us that she was concerned about the legal standing of the agreement if she crossed out words in it. She wanted RCI to provide a revised agreement that crossed out/amended the relevant words, or removed them altogether.

I said in my provisional decision that:

“While the agreement in its current form contains the standard clause regarding excess mileage charges I think RCI have taken reasonable steps to ensure that these charges won’t apply in Mrs W’s case. It is willing to accept the final response letter as an addendum to the signed amended agreement. My provisional decision is that RCI does not need to take any further steps regarding the agreement documentation. If Mrs W is concerned about the legal standing of the addendum arrangement then she should seek legal advice.”

In response to my provisional decision Mrs W said she is now happy to return a signed revised agreement (with items crossed out and/or amended by her as suggested). My decision remains that RCI doesn’t need to take any further steps regarding the agreement documentation.

Mrs W mentioned time scales in her summary response to my provisional decision. RCI stated in its final response that it would process a refund of the difference in payments and reduce the monthly payments going forward upon receipt of Mrs W’s signed acceptance.

Mrs W wishes RCI to provide compensation for the ongoing stress and inconvenience it caused her by not implementing the complaint resolution agreed in August 2022. RCI said that Mrs W had the confirmation she needed regarding excess mileage charges in her possession since then, so the delay in signing the required amended agreement was down to her.

I said in my provisional decision that:

“I have considered whether RCI should pay Mrs W some compensation for the stress this matter has caused. RCI could have made it clear to Mrs W in August 2022 that it would accept its final response letter as an addendum to the agreement. However, as Mrs W hasn’t accepted this course of action now I can’t see that she would have done so earlier in this dispute. I don’t think RCI’s inaction has delayed the matter and so an award for ongoing stress and inconvenience wouldn’t be appropriate here.”

Mrs W said in response to this that I don’t know what she would or would not have accepted. She said that at no point did RCI let her know that the contract she would be sent would amend the mileage from the beginning, in other words, September 2019, and would still contain the excess mileage charges. Mrs W also said that RCI never suggested a way forward but rather that she had suggested solutions herself and via this Service. She said had RCI explained that in the revised agreement the mileage would be amended from September 2019 and that it would still contain the excess mileage charges and suggested a workaround she might have been perfectly amenable to that approach.

It is, of course, true that I cannot know with certainty what Mrs W would or would not have accepted regarding this contract. Last month Mrs W didn’t accept the suggestion to attach a copy of the final response letter to the signed amended agreement and add an additional comment to it or cross out the part relating to excess mileage on the contract prior to signing it. I have to make a decision on this point and in the absence of anything to suggest otherwise, I’ve concluded that it’s more likely than not that Mrs W wouldn’t have accepted this suggestion earlier in the course of her complaint. It follows that I can’t then find that RCI

is responsible for the length of time its taken to resolve things. I remain of the view that an award for ongoing distress and inconvenience wouldn't be appropriate here.

My final decision

For the reasons I've explained above I am not upholding Mrs W's complaint about RCI Financial Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 2 August 2023.

Michelle Boundy
Ombudsman