

The complaint

Mrs E complains Santander Consumer (UK) Plc (SCUK) unfairly applied charges when her car hire agreement came to an end.

What happened

In July 2017, Mrs E entered into a 48 month hire agreement for a new car. The monthly instalments were £187.

The agreement ended in July 2021 but the car wasn't returned at that point despite SCUK's repeated requests for Mrs E to do so. This led to recovery agents being instructed. However following contact with her in May 2022, SCUK agreed to extend the agreement by 12 months and this was backdated to July 2021.

In July 2022, the agreement came to an end and the car was returned. Thereafter, SCUK said Mrs E had to pay the following end of contract charges:

- | | |
|------------------------|--------|
| - Recovery agent fees | £300 |
| - Extended hire charge | £145 |
| - Damage charges | £1,496 |

This totalled over £1,900. Unhappy with the same, she complained.

SCUK said they had applied the charges in line with the terms of the agreement. However as a gesture of goodwill, they agreed to reduce the damage charges by around £100.

Unhappy with their response, Mrs E referred the complaint to our service. Our investigator recommended the complaint wasn't upheld. He concluded SCUK were entitled to apply the above charges based on the terms of the agreement.

Mrs E disagreed and maintained her position. She also commented:

- She had tried to contact SCUK on multiple occasions by phone to discuss the extension of the agreement but to no avail. This was needed due to personal circumstances and her father being ill;
- When the agreement ended, she had received monthly invoices from SCUK which she paid so that demonstrated they had agreed to an extension meaning it was unfair for them to apply the recovery agent fee;
- The damages to the car were only cosmetic and to be expected given she had the car for around five years, SCUK should give reasonable consideration to the same.

As an agreement couldn't be reached, the complaint has been referred 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.

Having done so, I've decided not to uphold Mrs E's complaint. I will explain why.

Recovery agent fee

I've referred to the terms and having done so, it states if the agreement is passed to an external recovery agent, a charge of £250 will apply plus VAT.

In this case, the agreement came to an end in July 2021 meaning Mrs E needed to return the car but that didn't happen. She continued to have possession of the car and make use of it. She has explained the reasons why this was necessary and I'm sorry to hear the difficult period she went through. However while I empathise with the situation she was in, that doesn't negate the terms of the agreement and the need to return the car.

I've seen evidence where SCUK had sent emails, letters and calls to Mrs E to discuss the agreement, requesting for the car to be returned. As they received no response from her for quite some time, I can understand why they instructed recovery agents in April 2022. By that time, the agreement had ended several months prior. Mrs E has suggested she hadn't received the letters as she had moved address. However as per the terms, it was her responsibility to let SCUK know of her updated contact details. I find it was reasonable for SCUK to send correspondence to her last known address.

Mrs E said she had tried to call SCUK but the line was disconnected and she had also sent them an email. While I accept there may have been some difficulties contacting SCUK, I'm not persuaded this completely prevented her from doing so. I say this because I can see she did manage to speak to them in October 2021 and May 2022 which suggests she could've spoken to them sooner than she did.

Given the above, I find SCUK acted fairly and in line with the agreement terms by applying the external agent recovery fee.

Extended hire

The terms outlines if the car isn't returned at the end of the agreement, SCUK are entitled to apply a daily rental and it provides an explanation as to how they calculate this.

Mrs E comments when the agreement ended and the car hadn't been returned, she received monthly invoices from SCUK which she paid. She states this demonstrates that they had agreed to the extension meaning the recovery agent fee wasn't fair. However I disagree, as mentioned above, SCUK were entitled to apply a daily rental charge if the car wasn't returned. But that doesn't mean SCUK had formally agreed to an extension and in this case there is no evidence they done so until May 2022.

In terms of the £145 charge, SCUK said this was for the month of May 2022 which was the month the extension was being processed. There is nothing to suggest SCUK has unfairly calculated this amount and I'm satisfied they were entitled to charge it. From my understanding, Mrs E accepts this charge and this has already been paid.

Damage charges

The terms of the agreement outlines when the car is returned, it would be inspected and if it isn't in good condition, charges will apply. It goes on to state what wouldn't be considered acceptable damage so I've taken this into consideration when reviewing this complaint. It also states the car must be serviced in line with the manufacturer's warranty.

Additionally, SCUK said they've considered the guidance of the British Vehicle Rental & Leasing Association (BVRLA). This is used industry wide to assess damage when new cars have been returned as part of a car finance agreement. In this case, the car was new when Mrs E hired it so I believe it's fair for SCUK to rely on the same. While I note she had it for an additional year, I still find it reasonable for them to refer to this guidance.

SCUK have applied the following charges for damages and missing items:

Door RHR, LHR	Scratched
Door LHF	Scratched/paint chips
Door RHF	Paint chips
Door Mirror	Broken
Post trim	Scuffed
Quarter panel LHR	Dented
Wheels LHF and RHF	Scratched/scuffed
Bumper	Scratched
Service history	Four incomplete or missing

Based on what Mrs E has told SCUK, she accepts the charges for the scratches to the bumper, broken door mirror and missed services. So I won't comment on these charges, I will only focus on those that she disputes.

Door LHR & RHR - The inspection report said there were scratches. SCUK returns standard say damage isn't acceptable if any scratch penetrates the primer coat or if it can't be removed by buffing. The BVLRA guidance says "*Surface scratches of 25mm or less where the primer or bare metal is not showing are acceptable provided they can be polished out*". I've seen the pictures of the scratches and the measuring tool shown next to them, it's clear it's beyond what SCUK and the BVLRA would consider to be acceptable.

Door LHF & Door RHF – the report says these panels had paint chips. SCUK standards say any panel with a large number of chips, requiring respray or chips through to the primer coat aren't acceptable. BVLRA guidelines say if the areas of chipping require the entire panel, bumper or trim to be repaired or repainted it wouldn't be acceptable. Having seen the pictures of the damage, I can see the reported paint chips. I find this damage is beyond what SCUK and BVLRA consider acceptable. However as a gesture of goodwill, SCUK agreed to reduce this by £65 so I can't say they haven't acted reasonably.

Quarter panel LHR – The inspection report says there was a dent. SCUK's return standards say multiple dents to any one panel or one that exceeds 10mm on the bonnet, boot or above the body moulding line isn't acceptable. BVLRA guidelines are in line with SCUK's standards. Having seen the pictures, I find the dent wouldn't be considered acceptable.

Wheels LHF and RHF - The report said the wheel was damaged. BVLRA guidelines say scuffs up to 50mm are acceptable. From the pictures I can see a number scuff marks on the wheels concerned. SCUK has determined the scuffs are borderline 50mm so they've agreed to reduce this charge by £35.

I note Mrs E's comments that before returning the car she paid for it to be serviced. While I've seen evidence of the same, it's clear some were missing based on the suggested manufacturer intervals.

Overall, I find SCUK have fairly considered the damage and missing services and they are entitled to apply charges. As a gesture of goodwill, they've agreed to reduce the damages charges by £100 so I can't say they've acted unfairly.

Summary

Taking everything into account, I'm satisfied SCUK has acted fairly and in line with the terms of the agreement by applying the above end of contract charges to Mrs E's hire agreement.

As already confirmed, if Mrs E is unable to pay the charges in one lump sum she must contact SCUK to set up an affordable arrangement to pay.

My final decision

For the reasons set out above, I've decided not to uphold Mrs E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 30 January 2024.

Simona Reese
Ombudsman