

## **The complaint**

Mr B complains that Hitachi Capital (UK) Plc (Hitachi) charged him for a parking fine that wasn't valid, charged him for additional days hire of his vehicle when a delay in collecting it was their fault, and didn't take into account that his car had travelled much less than the mileage allowance when he handed the vehicle back.

## **What happened**

Mr B entered a hire agreement for a new car in June 2018. Mr B agreed to a total allowance of 60,000 miles, and the agreement ended in June 2020.

In March 2020 Mr B contacted Hitachi as his income had been affected by the coronavirus pandemic (Covid-19). He said the agreement only had two payments left, and he'd only travelled around 30,000 miles in the vehicle, so he asked for the final two payments to be waived.

Hitachi didn't agree to waive the payments. They gave Mr B breathing space for his April and May payments. This meant they weren't collected, but they would fall due in the future. They said the agreement didn't allow for a refund where the full mileage allowance wasn't used.

In June 2020 Mr B discussed a possible extension of the agreement with Hitachi. But he wasn't happy with the quotation provided and thought the monthly payments should've been lower due to the low mileage of the vehicle. Mr B complained to Hitachi about them not considering the reduced mileage on the vehicle.

Mr B's agreement ended in June 2020, and he chose to return the vehicle. The vehicle wasn't collected until the middle of July 2020, and Hitachi invoiced Mr B for additional days hire. There was an invoice for 25 June to 1 July 2020 for £157.68 which wasn't paid, and a separate invoice for 1 July to 10 July 2020 for £211.46 which Hitachi debited from Mr B's account.

Hitachi sent Mr B their final response to his complaint in August 2020. They said the agreement didn't allow a refund for unused mileage. The quote to extend the agreement was based on a number of factors, and Mr B ultimately chose to return the vehicle. They didn't uphold Mr B's complaint.

Mr B told Hitachi that he didn't think they'd responded fully to his complaint, and also complained about the charge for additional days hire, and a parking fine that had been added to his account.

In October 2020 Mr B complained again about the charge for additional days hire. Hitachi agreed to credit this to his account as a gesture of goodwill. Mr B didn't accept that it was a gesture of goodwill, he said it had been charged incorrectly in the first place.

In February 2021 Mr B received an arrears notice for unpaid sums and complained to Hitachi about this.

In June 2021 Mr B received a default notice and complained to Hitachi about this. Mr B didn't receive a response to his complaint, so he brought it to this service for investigation.

Hitachi told us that they received the parking fine in May 2019, and transferred liability of it to Mr B, which would've allowed him to dispute it. When they received notice that the fine had been escalated, and the amount due would increase in June 2019, they paid it and added the balance to Mr B's account.

They said Mr B's outstanding arrears were £1,468.68, made up of the two monthly rentals at £655.50 plus £157.68 for the contract extension that wasn't paid, and £50 for the parking fine. They said the delay in collecting the vehicle was their fault, so they'd remove the extension invoice still on the account, and refund the one already paid by Mr B. But the two rentals and the parking fine were still due, so the arrears and the default had been correctly recorded.

Our investigator gave his view that the offer put forward by Hitachi was fair. He said the parking fine was fairly charged, the agreement didn't allow for a refund for any unused mileage, so Mr B needed to pay for the two months rentals which hadn't been paid. He said the invoices for the extension of the agreement weren't fairly charged and so should be removed from the account.

Mr B didn't accept this offer. He said the extension charges should never have been made, one was taken from his account without his authority, and Hitachi had reported information which affected his credit file whilst the dispute was ongoing which he wanted them to remove.

Our investigator gave his view that he didn't think the charge had been taken without authority, as Mr B had a direct debit mandate in place, and Hitachi were able to use this to take any funds due under the agreement. He said as there had been missed payments, he thought Hitachi had reported correct information to the credit reference agencies, and so he didn't recommend they remove the adverse information recorded.

Mr B didn't agree. He said the parking fine was cancelled, adverse information shouldn't have been recorded whilst the amount was in dispute, and Hitachi shouldn't have taken the payment for the extension from his account. Mr B would like the information removed from his credit file, and for the final two payments to be waived as compensation for this distress and inconvenience of the situation, and as recompense for the vehicle being returned some 22,000 miles under the agreed mileage allowance.

As an agreement can't be reached, the case has been passed to me for a decision.

### **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.

#### *Parking fine*

Mr B told this service that the owner of the business where he received the parking fine told him it'd been cancelled, so he wouldn't need to pay this sum.

I've seen evidence that Hitachi received the fine initially, and transferred liability of the fine to Mr B, which would've given him the opportunity to dispute the fine. However, Hitachi

received notice that the fine was unpaid and still due, and that it would increase if it wasn't paid. So, although Mr B was under the impression it'd been cancelled, this wasn't the case.

The agreement says that Hitachi are able to charge Mr B the full amount of any motoring or parking fines and any other charges they have to pay, plus an administration charge. So, I think it was reasonable for Hitachi to pay the fine to prevent it from increasing, and the agreement allows them to add it to Mr B's account. I'm satisfied that this charge remains payable by Mr B.

#### *Additional days hire*

Hitachi have charged Mr B for a total of sixteen days extra hire of the vehicle, as it wasn't collected by the agreement end date. They've said this was because their collection agents were unable to collect the car in a timely manner as a result of Covid-19. It's not clear if Mr B continued to use the vehicle during this time, but Hitachi have offered to refund or remove these charges, and I think this is fair in the circumstances.

Mr B said the additional days hire should never have been charged, and because they were incorrect charges, the one that was taken by direct debit was done without his authority. Under the payments section of the agreement it says:

*'In respect of any other amounts due under this agreement (including recharges), the due date for payment is 30 days from the date on our invoice which you agree may be taken by direct debit...'*

So, Hitachi were able to take any amount due under the agreement by direct debit. Whilst I appreciate that Mr B doesn't think the additional hire amount was due, the car wasn't returned at the end of the agreement, and so he was billed for the extra days of hire. Hitachi have since confirmed this delay was as a result of Covid-19, and they'll waive these fees, but this doesn't mean they couldn't be taken by direct debit under the terms of the agreement. So, I don't think this payment was taken without Mr B's authority.

#### *Unused mileage*

Mr B has said that he returned the vehicle with much less mileage than the agreed mileage allowance, and he's asked Hitachi to compensate him for this in various ways: first by asking for the last two payments to be waived before they were due; then by asking for a lower monthly payment to be arranged on an extension of the agreement; and finally by asking for the last two payments to be written off after they became due.

Hitachi didn't agree to the proposals put forward by Mr B.

The agreement doesn't contain a term by which Mr B would receive a refund if the vehicle was returned with less miles than the allowance. The allowance is the maximum permitted, and it's not unusual for vehicles to be returned under this allowance.

I appreciate that Mr B covered fewer miles than he expected to when he entered the agreement, but as this didn't form part of the contract, I find Hitachi don't need to do anything more in respect of the lower mileage that Mr B travelled.

#### *Unpaid paid monthly rentals and credit record*

Mr B told Hitachi he was in financial difficulty as a result of Covid-19, and they offered him breathing space on two payments for April and May 2020. This means that Mr B didn't need

to make these payments at the time, but they would need to be repaid at the end of the agreement.

Mr B asked for these payments to be waived because of the low mileage, but Hitachi didn't agree to this as set out above. Mr B didn't make these payments or agree to enter any arrangement in order to repay them once the contract had come to an end.

I've explained above why I don't think Hitachi needed to compensate Mr B for returning the car under the mileage allowance. So, it follows that Mr B is responsible for the two monthly payments that haven't been paid.

Hitachi have recorded these missed payments on Mr B's credit file. Mr B has asked for this adverse information to be removed, as he believes it shouldn't have been reported while the amount was in dispute. Hitachi have a duty to ensure accurate information is reported to credit reference agencies. I'm satisfied that these payments were due to be made by Mr B, and they weren't. He also didn't enter an agreement to make them, so I find that Hitachi acted reasonably in reporting missed payments in relation to Mr B's account.

### **Putting things right**

Hitachi have made an offer to remove the charges for the additional days hire from Mr B's account, and I think this offer is fair in the circumstances.

Hitachi Capital (UK) Plc must remove the outstanding charge of £157.68 for the unpaid additional hire invoice, and refund Mr B £211.46 for the paid invoice for additional days hire.

Hitachi should add 8% interest to this refund from the date of payment to the date of settlement.

Mr B is responsible for the remaining outstanding charges, so Hitachi can deduct the refund from the amount left to be paid by Mr B.

### **My final decision**

For the reasons explained above, I uphold this complaint and Hitachi Capital (UK) Plc must:

- Remove the outstanding charge of £157.68 for the unpaid additional hire invoice
- Refund Mr B £211.46 for the paid invoice for additional days hire plus 8% simple interest from the date of payment to the date of settlement.

Hitachi can deduct the refund from the amount left to be paid by Mr B.

If Hitachi considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr B how much it's taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 June 2022.

Zoe Merriman  
**Ombudsman**