

The complaint

Mr M complains about end of contract charges when his agreement with Mercedes-Benz Financial Services UK Limited ended.

What happened

In January 2017 Mr M was supplied with a car and entered into a hire purchase agreement with MBFS.

At the end of the agreement the car was collected and inspected. The inspection identified damage to the front bumper, the A post (LH), the QTR panel (LH) and the rear bumper.

Mr M disputed the charges. He said the photos taken when the car was inspected didn't show the damage, but that even if they did, the damage was within fair wear and tear. Mr M said that if he was wrong about that, no charges should be applied in any event because MBFS hadn't suffered any loss because it hadn't provided any evidence that the repairs had been carried out, or any evidence that the car sold for less than expected as a result of the damage.

In response, MBFS said it had provided Mr M with the vehicle returns standards before the car was collected and inspected, so that he had the opportunity to familiarise himself with the fair wear and tear expectations and have any repairs carried out. It sent Mr M a link to the inspection report including the photos. MBFS reviewed the charges and agreed to remove the charge for the rear bumper but said the rest of the damage had been correctly charged. MBFS noted that Mr M had a contractual mileage allowance of 42,500 and that he had returned the car with 30,585 miles recorded but said it didn't offer incentives for customers who returned cars under mileage.

Mr M wasn't happy with the response from MBFS and brought his complaint to this service.

Our investigator partially upheld the complaint. He reviewed the damage and said that MBFS should remove the charge for damage to the QTR panel because the photos didn't clearly show that the damage was outside of acceptable wear and tear. The investigator said that the rest of the charges had been correctly applied. In relation to loss, the investigator said that the BVLRA guidelines allowed MBFS to apply end of contract charges even if it made a commercial decision not to complete repairs.

Mr M accepted the removal of the charges for the QTR panel but said his video evidence showed that there was no damage in the other two areas. Mr M also said that he didn't agree with the approach taken to loss. He said that the agreement stated that loss was calculated by evidence of the cost of repairs, or (if no repairs had been undertaken), the depreciation in value of the vehicle. Mr M said that MBFS had failed to provide any evidence to show that repairs had been carried out, and that the chances of MBFS having incurred a loss when they sold the car was unlikely given the cars low mileage.

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.

The terms and conditions of the agreement say that Mr M must return the car in good condition and in line with the vehicle returns standards. The vehicle returns standards set out what is an acceptable level of damage.

I've set out the damage being charged for and why its being charged, the repairs needed and the cost MBFS intend to charge. I haven't included the rear bumper charges because these were removed in MBFS's final response.

Front bumper – scratches are over 50mm – requiring refinish - £210

Left hand A post – scratch over 25mm – requiring refinish - £70

Left hand rear QTR panel – scratch over 25mm – requiring refinish - £170

As well as MBFS's vehicle returns standards, the BVLRA has produced industry guidance to help determine what a leasing company can charge for when a car is returned. This is my starting point because the BLRA guidance represents good practice across the industry and is very detailed. I've taken the BVLRA guidelines into account as well as the vehicle return standards when deciding whether MBFS acted fairly and reasonably in applying the charges.

I've looked at the photos of the damage from the inspection report provided by MBFS. I've also looked at the video evidence provided by Mr M.

Mr M has said that the damage he's been charged for isn't visible on his video evidence. However, I'm satisfied that I can see the damage on the photos which form part of the inspection report. There's nothing to suggest that the photos in the inspection report aren't photos of Mr M's car. Nor have I seen anything to suggest that the damage occurred after the car was collected. I'm satisfied that the photos represent the damage.

In relation to the damage on the front bumper, the BVLRA guidelines permit a maximum of 4 scratches. I'm satisfied – based on the photos – that there are more than 4 scratches on the front bumper and that some of them have exposed the primer or the metal. Based on what I've seen, I'm satisfied that this item of damage is chargeable in accordance with the guidelines.

In relation to the damage on the A post, the BVLRA guidance says that scratches which exceed 25mm or which expose the primer or metal are chargeable. I'm satisfied, based on the photos, that the scratch on the A post exceeds 25mm and is chargeable in accordance with the guidelines.

In relation to the QTR panel, I agree with the investigator that the photos don't clearly show that the damage goes beyond acceptable wear and tear. So I don't think its fair for MBFS to charge for this damage.

Mr M has said that he doesn't think its fair for MBFS to charge for damage because it hasn't provided evidence that the repairs were carried out before the car was sold at auction. I've taken what Mr M has said on board, but there's no requirement for MBFS to have the car repaired. Its up to them if they want to sell the car at auction with damage. A car with damage will achieve a lower price at auction than a car without damage, so it's more likely than not that MBFS will have suffered a loss because of the damage. Even if Mr M is right

about MBFS not having carried out any repairs before selling the car (and I don't have information to say whether MBFS carried out repairs or not), I still think MBFS is entitled to charge for loss of value at auction for damage which is outside of acceptable wear and tear.

Putting things right

To put things right, MBFS must refund the charges for the QTR panel.

My final decision

My final decision is that I partially uphold the complaint. Mercedes-Benz Financial Services UK Limited must remove the charge for the QTR panel of £170.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 July 2022.

Emma Davy
Ombudsman