

The complaint

Mr L complains about charges LeasePlan UK Limited trading as Network applied for damages when he returned a van it had supplied under a hire agreement.

What happened

In January 2019 Mr L acquired a van using a hire agreement provided by LeasePlan. In November 2021 Mr L terminated the agreement early and the van was returned and inspected.

Following the inspection, Mr L was charged for the following:

- Appearance of van - Dirty - £10
- Door LHF – paint chips - £100
- B post LH – paint chips - £100
- Bumper rear – dented - £100
- Door RHR – scratched - £155

Mr L was unhappy with these charges and complained to LeasePlan. It issued its final response in January 2022. This said, in summary, that it had reviewed the details from the inspection and it felt all the damage fell outside of fair wear and tear. So, it said Mr L still owed the £465.

Mr L remained unhappy and brought the complaint to our service. He said all the damage was fair wear and tear. He said he was never asked to explain the damage. And he said LeasePlan sold the van without repairing it.

Our investigator didn't uphold the complaint. She said she'd reviewed the photos of the damage from the inspection and compared it to fair wear and tear guidelines from the British Vehicle Rental & Leasing Association (BVRLA). Having done so, she said all the damage fell outside of the guidelines.

Mr L disagreed. He said, in summary, that he had reviewed the photos and thought the damage was within the guidelines.

I sent Mr L and LeasePlan a provisional decision on 10 May 2022. My findings from this decision were as follows:

Mr L complains about charges for damage in association with a hire agreement. Entering into hire agreements such as this is a regulated activity, so I'm satisfied I can consider Mr L's complaint about LeasePlan.

I've firstly considered whether LeasePlan could charge Mr L for damage to the van. Looking at the agreement he signed, this says:

"You shall....:

“take reasonable care of the Vehicle and keep the Vehicle in good and substantial repair and condition at all times”

“If requested you must immediately pay us for:

The costs of repair or replacement of any part(s) or accessories where such repair or replacement is required as a result of any loss or damage to the Vehicle which we think is in excess of Fair Wear and Tear”

So, I think Mr L agreed to keep the van in good condition and agreed to cover the cost of repairs if it was returned with damage outside of fair wear and tear.

I've gone on to consider the photos from the inspection that took place and considered the BVRLA guidance on fair wear and tear. I should note here that, because Mr L hired a van, I've considered the BVRLA Fair Wear & Tear Guide for light commercial vehicles.

Mr L was charged for the van being dirty. The BVRLA guidance says:

“The vehicle's exterior should be sufficiently clean to allow a detailed inspection.”

I'm satisfied on balance this wasn't likely the case, so I think it's reasonable for LeasePlan to charge for this.

Mr L was charged for paint chips to the LHF door and the LH B post. In relation to paint chips, the BVRLA guidelines say:

“Chips of 8mm or less in diameter are acceptable provided the base metal or material is not exposed or rusted

Maximum of four chips on any panel, six chips per door edge, and eight chips on any forward-facing panel”

Looking at the photos of the door, I can see over six chips on the door edge. And several appear to have exposed the base metal. So, I'm satisfied this damage falls outside of the guidance.

Looking at the photo of the B post, I can see over four chips, including a longer bit of damage I'm satisfied has exposed the base metal. It follows I'm also satisfied this damage falls outside of the guidance.

In relation to scratches, the BVRLA says:

“scratches and abrasions of 50mm or less are acceptable provided the base metal or material is not exposed or rusted”

Looking at the photos of the door here I can see a scratch which is clearly over 50mm. So, I'm satisfied this also falls outside of the fair wear and tear guidelines.

I've then gone on to consider the charge for the dent to the rear bumper. In relation to dents, our investigator said she thought there was a dent of over 15mm. But, the bumper wasn't painted. In relation to unpainted mouldings, the BVRLA guidance says:

“Scuffs and scratches of 50mm or less are acceptable provided the moulding or trim is not broken, cracked or deformed”

Looking at the photos here, I can't see what I would describe as a 'dent' to the bumper. But, I can see damage where a tow bar has been fitted. There is what appears to be a wire being ran through the bumper, and the hole it goes through appears to be ripped or torn and looks unsightly. Given a relatively close up shot was photographed here, along with a measurement, this makes me think this could be the damage LeasePlan are referring to.

I've carefully thought about this. There isn't specific guidance in the BVRLA for this type of issue. But, I need to consider the overall intention behind the guidelines. The BVRLA guidance explains fair wear and tear occurs "when normal usage causes acceptable deterioration to a vehicle". Thinking about this damage to the bumper, I'm satisfied it quite clearly doesn't fit this general description. And, I think this impacts the appearance of the van – particularly if the tow bar was removed.

So, considering all of this, even though I don't agree the damage shown meets what LeasePlan described it as, I'm satisfied it still falls outside of fair wear and tear and so it's still fair and reasonable to charge Mr L for it.

Finally, I'd like to reassure Mr L that I've carefully considered everything he's said about this complaint including all of his comments about the damage and photos. But, I'm still satisfied this all falls outside of fair wear and tear.

I gave both parties two weeks to respond with any further information or evidence.

Mr L came back and made several points to consider. He said that the tow bar was factory fitted so he shouldn't be charged for any damage it caused. And, in summary, he reiterated his comments about the pictures and other damage to the car. He said no damage at all had done through to the base metal. And he said none of the damage was outside of the guidelines.

LeasePlan didn't initially respond. I then got in touch with LeasePlan following Mr L's response. I explained what he'd said about the tow bar being factory fitted and asked LeasePlan to provide comments about this. I explained if it didn't provide any comments or evidence about this issue that I would likely uphold the complaint and remove this charge. I explained this was because it wasn't fair and reasonable to charge Mr L for damage caused by a factory fitted option.

I gave LeasePlan a further deadline of 3 June 2022 to provide anything further. It's response, in full, was:

"It's the bumper behind the towbar"

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 think this complaint should be upheld. I'll explain why.

I've thought very carefully about the charge to the rear bumper. Having done so, I'm satisfied it's fair and reasonable that this is removed. I'll explain why.

Given LeasePlan's very brief response, I still don't know if, when charging for the damage, it was for a dent, as described, or the hole as I suspected. But, either way, this wouldn't change my opinion. I say this as, if it's referring to a dent, I can't see this. And, it provided no commentary or evidence to contradict Mr L's version of events that the towbar was fitted

when he got the van. I don't think it would be fair and reasonable to charge Mr L for damage which was likely there when he acquired the car. So, it follows this charge should be removed.

I've very carefully thought about everything else Mr L said in response to my provisional decision. I appreciate he disagrees with my thoughts about the rest of the damage to the van. And, I'd like to reassure him that I've carefully gone through all of the photos and evidence bearing in mind what he said.

But, having done so, I still think it's fair and reasonable for LeasePlan to charge for the remaining damage. This is for the same reasons I explained in my provisional decision and set out above.

My final decision

My final decision is that I uphold this complaint. I instruct LeasePlan UK Limited trading as Network to put things right by removing the charge for the rear bumper.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 5 July 2022.

John Bower
Ombudsman