

## The complaint

Mr S complains that the terms on which MotoNovo Finance Limited offered to accept his rejection of a car are unfair.

## What happened

In September 2021 Mr S entered into a four-year hire purchase agreement for a used car with MotoNovo. After part exchange and payment of a deposit, Mr S was to pay £756.76 a month.

Quite soon after he took delivery of the car, Mr S reported problems with it. Repairs were attempted, but the problems persisted and, in December 2021, Mr S said that he wanted to reject the car. MotoNovo agreed to that but said that its policy was to retain one monthly payment for each 1,000 miles of use of the car. Between September 2021 and February 2022 Mr S had travelled some 5,000 miles, so MotoNovo said it would retain five monthly payments – that is, more than £3,500, or all the monthly payments Mr S had made.

Mr S did not think that was fair. Although he had been provided with a courtesy car for some of the period he was without his car, that was not what had been agreed. He referred the matter to this service.

One of our investigators considered what had happened. He did not think that it was fair that MotoNovo should retain all the monthly payments which Mr S had made. MotoNovo did not accept the investigator's preliminary assessment and asked that an ombudsman review the case.

I did that and issued a provisional decision. I said:

*The hire purchase agreement was to be read as including a term that the car would be of satisfactory quality. It appears to be accepted that it was not and that Mr S is therefore entitled to reject it. The dispute here is about the terms on which that should happen. In particular, there is a dispute about how much of a refund, if any, Mr S should receive from the monthly payments he made for the car.*

*It appears that the problems with the car became evident quite soon after Mr S took delivery of it. He has explained that he returned the car on 10 November 2021 and that he had a courtesy car from 30 November 2021 until 24 February 2022, when the agreement ended. He did however use the car for a few weeks and travelled more than 5,000 miles in that time. Under the Consumer Rights Act 2015, where a consumer rejects goods, any refund to the consumer can be reduced to take account of any use the consumer has had of the goods before rejection – section 24(8) to 24(10).*

*MotoNovo's proposal is therefore that the deduction under section 24(8) be the same as the monthly payments made from delivery until it accepted rejection. Mr S's mileage in the few weeks he had use of the car was very high; I note that his annual expected mileage was 10,000 miles, yet he covered half that in about six weeks. I can understand therefore why MotoNovo might think he should pay in full. Against that, however, he could not use the car*

*for more than four months, although he did have a courtesy car for most of that time. I note as well that it was two months from the time when Mr S said he wanted to reject the car until MotoNovo agreed to that.*

*Overall, therefore, I think it fair that Mr S should receive some reimbursement to reflect the fact that he did not have full use of the car while the hire purchase agreement was in force. In my view, it would be fair – taking all the above considerations into account – for him to receive a refund of two monthly payments.*

*I note that MotoNovo has already made a payment of £200 to reflect the inconvenience to which Mr S was put, and I agree that is fair.*

I recommended that MotoNovo pay Mr S £1,513.32, representing two monthly payments, to resolve the complaint.

MotoNovo had nothing to add. Mr S did not respond to my provisional decision within the time I indicated.

### **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.

Because neither party has added anything in response to my provisional decision, I see no reason to reach a different conclusion. I will however make a formal award, so that Mr S can enforce it, should he need to do so.

### **My final decision**

My final decision is that, to resolve Mr S's complaint in full, MotoNovo Finance Limited should pay him £1,513.32, representing two monthly payments.

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

Mike Ingram  
**Ombudsman**