

The complaint

Mr P complains about charges N.I.I.B Group Limited trading as Northridge Finance (Northridge) made following rejection of his vehicle.

What happened

Mr P entered a hire purchase agreement with Northridge in August 2020 to acquire a used car.

Soon after he acquired the car Mr P experienced problems with the gearbox, and a number of attempts were made to repair it by the dealership, including advice from the manufacturer, but the problem was not resolved.

An inspection was completed in June 2022 which concluded that there was a transmission problem with the car and although repair attempts had been made, the problem hadn't been fixed.

Mr P complained to Northridge in June 2022 and asked to reject the car.

Northridge sent Mr P their final response to his complaint in July 2022. They said the dealership accepted rejection of the car, and they made a settlement offer reflecting Mr P's use of the car. They said they would refund Mr P's £10,000 deposit and the payments he'd made toward the agreement, but they would deduct a charge of 45 pence per mile for the total mileage that Mr P had driven the car. They calculated the refund due to Mr P as £8,995.01.

Unhappy with this, Mr P brought his complaint to our service for investigation. He said the offer made by Northridge would mean he'd lose over £10,000 in payments for a faulty vehicle.

Our investigator gave his view that the agreement between Mr P and Northridge didn't allow for an additional mileage charge to be made. He said Mr P had fair use of the car whilst it was in his possession, but the monthly payment agreed between Mr P and Northridge at the outset represented a fair charge for this use.

Our investigator said Northridge should remove any charge for mileage, and refund Mr P's deposit plus interest. He also recommended that Northridge refund the £160 Mr P paid for the engineer's report, as this wouldn't have been needed if the car wasn't faulty when supplied, and they should pay Mr P £200 compensation for the distress and inconvenience caused.

Northridge didn't agree. They said the Consumer Rights Act 2015 (CRA) sets out that consumers should exercise their right to reject quickly, but Mr P continued to use the vehicle for two years and travelled around 21,000 miles, so it wasn't unreasonable for them to make a deduction to any refund to reflect this use, and 45 pence per mile was an industry standard.

Mr P said he'd still be left out of pocket if Northridge agreed to our investigator's recommendations.

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.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

Mr P was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

Northridge have accepted rejection of the car, so I haven't considered whether or not the good were satisfactory quality when they were supplied, only whether Northridge's offer does enough to put things right.

As Mr P has been allowed his final right to reject the car, Northridge should arrange for it to be collected at no further cost to Mr P and refund his £10,000 deposit plus 8% simple interest.

Northridge said that Mr P should've exercised his right to reject the vehicle quickly, but instead he's had it for two years. I can see that Mr P first raised the fault with the gearbox with the dealership in around October 2020, shortly after the car was acquired. Mr P worked with the dealership that supplied the vehicle on a number of occasions over that time period, giving them the opportunity to repair the vehicle. As Mr P wanted to keep the vehicle, I don't think it was unreasonable of him to ask for it to be repaired, or to decide to reject it only when it became clear that a repair solution couldn't be found.

I can't see that Mr P contacted Northridge until June 2022, when he asked them to reject the car. I think it's reasonable that Mr P contacted the dealership that he purchased the car from in order to try and have the faults repaired, and that he continued to try and work with them to reach this outcome, prior to contacting Northridge.

Northridge have calculated the refund due to Mr P following rejection to include his deposit and the payments made under the agreement, minus a charge of 45 pence per mile that Mr P has driven the car. They say they are able to deduct a charge for the use of the vehicle. Mr P has asked for a refund of all payments he made under the agreement because the car was faulty from the start.

The Consumer Rights Act 2015 (CRA) sets out that where the final right to reject is exercised, any refund can be reduced by a deduction for use, taking account of the use the consumer has had of the goods.

I've thought about what reflects a fair deduction for the use Mr P had of the car.

I've looked at the agreement between Northridge and Mr P. When it was entered, Northridge and Mr P came to an agreement for the amount that Mr P would pay in order to use the car, which was £384.03 a month.

The agreement doesn't contain a mileage allowance or any provision which allows Northridge to charge Mr P for mileage or excess mileage.

Mr P has driven the car around 22,000 miles in the two years that he's had it, which is around what I'd expect to see for a vehicle of this type over this time period. So, he's driven it an average number of miles.

As Mr P has neither excessively underused nor excessively overused the car in the period, I'm persuaded that the monthly payment originally agreed represents a fair charge for the use Mr P had of the vehicle.

So, I find it's reasonable for Northridge to retain all of the monthly payments made by Mr P to reflect the use he's had of the car, but not to charge him at the rate of 45 pence per mile driven.

Mr P paid £160 for a diagnostic report, which showed the continued fault with the vehicle. It wouldn't have been needed if the vehicle was of satisfactory quality at the time it was supplied, and so Northridge should refund Mr P for the cost of this, plus 8% simple interest.

Our investigator recommended that Northridge pay Mr P £200 compensation. Mr P has been put to distress and inconvenience in arranging a number of repair attempts to the vehicle, which haven't been successful. Overall, I'm satisfied that £200 fairly reflects the distress and inconvenience caused to Mr P.

Putting things right

Northridge have accepted that Mr P is allowed his final right to reject the vehicle, meaning that they should end the agreement with nothing further to pay, collect the car at no further cost to Mr P and refund the deposit he paid plus interest.

Mr P has had use of the car, and I'm satisfied that his normal monthly payment reflects a fair charge for the use he's had, so Northridge don't need to refund any of the payments Mr P has made, and they should remove the 45 pence per mile charge for use.

Mr P has paid for a diagnostic report, and I think it's reasonable for Northridge to refund Mr P for the cost of this, and to pay him £200 compensation for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint, and N.I.I.B Group Limited trading as Northridge Finance must:

- End the finance agreement and collect the car at no further cost to Mr P.
- Refund Mr P's deposit of £10,000 plus 8% simple yearly interest calculated from the date of payment to the date of settlement.
- Refund Mr P £160 for the diagnostic report plus 8% simple yearly interest calculated from the date of payment to the date of settlement.
- Pay Mr P £200 compensation to reflect the distress and inconvenience caused.

If Northridge considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr P how much it's taken off. It should also give Mr P 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 P to accept or reject my decision before 28 March 2023.

Zoe Merriman
Ombudsman