

## **The complaint**

Mr M is unhappy that Compare Your Car Lease Ltd (CYCL) has retained a £600 cancellation fee which he didn't agree to.

## **What happened**

Mr M was looking to take out a car on finance. He paid £1,200 to CYCL but decided not to go ahead with the finance or car purchase. Instead, he brought another car with cash.

CYCL charged him a cancellation fee of £600 but said they would refund him the rest of the deposit amount, which Mr M has confirmed he has received. They say he agreed to their terms and conditions on their website which state a cancellation fee is payable if an order is cancelled.

Mr M has said that he didn't go through CYCL's website and he spoke to someone over the phone about the car and finance. He says a charge wasn't ever mentioned to him, and he can't see it in the terms and conditions the business sent him when he queried it either.

An investigator looked into the case and said that as CYCL couldn't provide a copy of the document showing that Mr M agreed to the £600 fee it wasn't fair for them to charge it.

She referred instead to section 155 of the Consumer Credit Act which says that if an agreement isn't entered into within six months from the payment of the broker's fee they can only keep £5 of the fee.

So, she said that CYCL can keep £5, but should refund the remaining £595 to Mr M. She said they should pay him £1,195 in total. She also said they should pay 8% simple interest on the refunded amount and £100 for the distress and inconvenience caused to Mr M.

CYCL didn't respond to the investigator findings, so the case has been passed to me to make a final 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.

Mr M sent us evidence that he paid £1,200 to CYCL through a faster payment bank transfer. He has said that he was told over the phone that the money was refundable and that he wasn't sent any terms and conditions prior to making this payment.

I'm mindful that CYCL haven't been able to provide any documents showing that Mr M agreed to their terms despite repeated requests for this. They've instead said that Mr M would've seen their terms when he made payment through their website.

Mr M's testimony, coupled with evidence of the bank transfer, means I'm not persuaded that Mr M used CYCL's website. And so, I don't think he was informed about a £600 charge, or that he agreed to it.

Although I don't think Mr M knew about the cancellation fee, based on what he has said, I'm persuaded that he did enter into agreement with CYCL for their brokering services. So, I've considered what the Consumer Credit Act sets out about brokering fees. Section 155 of the act says:

*"Subject to subsection (2A), the excess over £5 of a fee or commission for his services charged by a credit-broker to an individual to whom this subsection applies shall cease to be payable or, as the case may be, shall be recoverable by the individual if the introduction does not result in his entering into a relevant agreement within the six months following the introduction."*

Mr M has explained that after speaking to CYCL he went to view another car which he ended up purchasing with cash. There is no evidence to show that he entered into a relevant agreement within six months of CYCL introducing him to the finance. Even though Mr M didn't end up purchasing the car, or using the finance arranged by CYCL, I think it is fair that they retain a fee in line with the act. So based on the above, I think that it would be fair for CYCL to keep £5 of the money Mr M paid them. So, CYCL should refund £1,195 in total to Mr M.

CYCL should also add interest at 8% a year simple on £595 from the date Mr M requested the refund on 13 February 2023 to the date of settlement. This is because Mr M hasn't had use of this money since this date.

Mr M has said what has happened affected him mentally and financially. He also had the worry that he wasn't going to get the £600 back, which he has said is a lot of money to him because he is disabled and not working. Given what Mr M has said about how this has affected him, and that it has impacted him since February 2023, I think it is fair that CYCL pay Mr M £100 for the distress and inconvenience he's experienced.

### **Putting things right**

For the reasons set out in this decision, Compare Your Car Lease Ltd should:

1. Refund Mr M £595;
2. Add 8% simple interest on part one of this settlement from when Mr M requested the refund on 13 February 2023 to the date of settlement of this complaint; and
3. Pay Mr M £100 for the distress and inconvenience he's experienced.

CYCL must pay these amounts within 28 days of the date on which we tell them Mr M accepts my final decision. If they pay later than this, they must also pay interest on the settlement amount from the date of final decision to the date of payment at 8% a year simple.

If CYCL deducts tax from any interest they pay to Mr M, they should provide Mr M with a tax deduction certificate if he asks for one, so he can reclaim the tax from the tax authorities if appropriate.

**My final decision**

My final decision is that I uphold this complaint and require Compare Your Car Lease Ltd to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 July 2024.

Ami Bains  
**Ombudsman**