

## **The complaint**

Mrs E is unhappy with the charges being applied by Santander Consumer (UK) Plc after she returned a car that had been supplied to her under a hire agreement.

Mrs E has been represented during the claim and complaint process by Mr T. For ease of reference, I will refer to any comments made, or any action taken, by either Mrs E or Mr T as “Mrs E” throughout the decision.

## **What happened**

In October 2020, Mrs E was supplied with a car through a hire agreement with Santander. She paid an advance payment of £2,000 and the agreement was 36 months; with monthly hire payments of £320.42. Shortly before the agreement came to an end, Mrs E experienced problems with the car that were fixed at no cost to her. This took around four months, during which time Mrs E was provided with a courtesy car.

When the agreement ended, the car was returned to Santander. She then received an invoice from Santander for £884.46, which was made up of:

- £320.42 – the outstanding payment for the period 2 October to 1 November 2023
- £90 – parking fine incurred on 29 September 2023
- £421.04 – excess mileage charge
- £53 – end of contract damages charge

While I haven’t been supplied with a copy of this invoice, based on the evidence I’ve seen, it’s my understanding that the end of contract damage charge had been reduced from £203 to the £53 charged to Mrs E – a reduction of £150.

Mrs E wasn’t happy with these charges and complained to Santander. Although Santander didn’t uphold the complaint, they did reduce the excess mileage charge by £150 to account for the need for Mrs E to take the car in for repair, and collect it following repair, towards the end of the agreement. This reduced the overall charge being applied to £734.46.

Mrs E wasn’t happy with Santander’s response and considered their continued requests for the payment to be harassment. So, she brought her complaint to the Financial Ombudsman Service for investigation.

After considering the evidence, our investigator thought that the charges had been fairly applied, and that Santander had acted reasonably by reducing the charges by a total of £300. So, the investigator didn’t think Santander needed to do anything more.

Mrs E didn’t agree with the investigator. She said there had been no recognition given to the fact that she didn’t have use of the car for four months, while it was being repaired, which is unfair. She also provided a video which she said proved there was no damage to the car when it was collected and said that the third-party collection agent would be able to provide a statement also confirming there was no damage.

So, she asked that this matter be sent to an ombudsman to decide.

### **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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

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 (if appropriate) what I consider was good industry practice at the time. Mrs E was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

I've considered each of the charges applied separately.

#### Missing rental payment

The agreement is clear that Mrs E was required to pay a £2,000 advance payment followed by 35 monthly rental payments of £320.42. In her complaint to ourselves, Mrs E has confirmed that she cancelled the direct debit in early October 2023, and it's for this reason the final payment under the agreement wasn't collected.

As the final payment due under the agreement wasn't collected, I'm satisfied that Santander have acted reasonably by applying this charge.

#### Parking Fine

Mrs E doesn't dispute this charge. As such, I won't comment further on this, and I won't be asking Santander to remove this charge.

#### Excess Mileage

The agreement clearly states that Mrs E was allowed to do 12,000 miles a year (36,000 miles over the lifetime of the agreement) without incurring additional charges. However, if she exceeded this mileage, then she would be charged 13.8p (including VAT) per mile, for every mile over 36,000 miles, as an excess mileage charge.

When the car was returned to Santander it had done 39,051 miles – 3,051 miles more than was allowed. As such, Santander charged an excess mileage charge of £421.04. I'm satisfied that charge was made in line with the agreement Mrs E signed on 30 October 2020.

Mrs E didn't think this charge was fairly applied, and she's referred to the distance she travelled in the car to take it for repair and collect it from repair, and that this added unnecessary mileage to the car. While I appreciate Mrs E's argument here, Santander have already discounted the mileage charge by £150 – the equivalent to over 1,000 miles, which is substantially more than the unnecessary mileage Mrs E has referred to.

What's more, Mrs E was in a courtesy car for around four months, during which time she wasn't using the car supplied to her by Santander. As such, the distance she travelled in the

courtesy car wasn't added to the mileage she'd travelled in the car supplied by Santander, and she wasn't charged for this additional excess mileage – something she would've been charged for had the car supplied to her not developed a fault. So, Mrs E was charged less excess mileage than she ordinarily would have been charged.

Given this, I won't be asking Santander to make any further reduction to the excess mileage charge.

Regarding the courtesy car itself, Mrs E doesn't think this has been taken into consideration. But I don't agree with this. In addition to the reduced excess mileage charge as a result of the courtesy car being supplied, Mrs E was able to use the car supplied by Santander while it was in her possession. And while it was being repaired, she was provided with the courtesy car to keep her mobile. Because of this, I think it's only fair that she pays for this usage. So, I won't be asking Santander to refund any of the payments she's made.

### End of Contract Damages

The agreement Mrs E signed on 30 October 2020 clearly states that Santander are able to charge for any damage to the car. The industry standard applied to this type of charge is anything that falls outside of the fair wear and tear guidelines as defined by the British Vehicle Rental and Leasing Association (BVRLA). So, this is what I've considered when looking at the damage to the car.

I've seen that the car was inspected on 11 October 2023 by a third-party company who specialise in this type of inspection. Their inspection found three areas of damage that fell outside the BVRLA guidelines, which were:

- scuffs to the front bumper over an area of more than 100mm
- scuffs to an alloy wheel over an area between 50mm and 100mm
- a dent in a door post which has removed the top layer of paint and exposed the primer – this type of damage is typically caused by an attempt to shut the door while the seatbelt buckle is in the way

The inspection report has photographic evidence of this damage, and confirms the total charge is £198. As I've explained above, Santander have reduced this charge to £53.

I'm satisfied the inspection report clearly shows this damage, so I'm satisfied Santander acted reasonably by charging Mrs E for this.

Mrs E has provided a video she feels clearly shows the car was undamaged at the time it was returned to Santander. However, I'm not satisfied that it does this, and the weather conditions at the time the video was taken don't help the clarity Mrs E believes is present.

Mrs E also believes that, as there were a few days between the car being collected and it being inspected, and given the car travelled a few miles during this time, then the damage must've been caused after collection. I don't agree with this. I say this because there are three separate areas of damage, and I think it's unlikely that the car would've suffered three separate incidents within the few days between collection and inspection – I think it's more likely than not that this damage occurred in the 3 years and over 39,000 miles that Mrs E was in possession of the car.

Finally, Mrs E has said that the person who collected the car would be able to provide a statement confirming there was no damage to the car on collection. However, she hasn't provided this statement, and it's not the role of the Financial Ombudsman Service as an independent complaint handling organisation to seek out evidence to support the position of

either party – it's for the parties to supply the evidence, especially if this is being provided from a third party.

### **My final decision**

For the reasons explained, I don't uphold Mrs E's complaint about Santander Consumer (UK) Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 15 January 2025.

Andrew Burford  
**Ombudsman**