DRN-5002102

## The complaint

Mrs T complains about end of contract damage charges by N.I.I.B. Group Limited trading as Northridge Finance ('NF').

## What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my informal remit.

Mrs T entered into a hire purchase agreement for a car. She terminated the agreement and handed it back to NF and it compiled a condition report advising of charges totalling £2,680 to remedy vehicle damage.

Mrs T was not happy with this and NF eventually reduced the bill to £550.

Mrs T says it is still not fair for NF to charge her. In summary, she complains that NF are unfairly trying to recuperate value lost on the car by selling it at auction. She also says that the car was already damaged when she took delivery of it. And after the auction the car was advertised by a dealer as being in 'mint condition' meaning it had light scratches that could be easily polished out.

Our investigator did not consider it fair that NF reduce the bill any further. Mrs T does not agree and has asked for the matter to be considered by an ombudsman.

I issued a provisional decision which said:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.*

*I note that the focus of the investigator's findings and reason for not upholding the complaint involves the fact that NF says Mrs T used the car as a taxi and did not declare this to it. As a result the mileage of the car had increased from around 80,000 miles at the point of supply to around 175,000 at the time of inspection. It says had Mrs T disclosed her intended commercial use of the car she would not have got an agreement with no mileage cap. Our investigator effectively said that Mrs T had exceeded reasonably expected wear and tear due to this.*

*I am not upholding this complaint - but it isn't for these reasons. It follows that at this stage I do not consider it necessary to go into or make any finding on the disclosures at the start of the finance, what the finance says about permitted use, mileage allowances or Mrs T's specific use of the car as a taxi.*

*My starting point is I am satisfied on return of the car NF is fairly able to charge Mrs T for damage that is considered more than reasonable wear and tear. The finance agreement*

*talks about Voluntary Termination (which Mrs T did here) and explains that further charges are payable if Mrs T is deemed not to have taken 'reasonable care of the goods'. The terms and conditions go on to explain Mrs T is responsible for loss or damage to the goods.*

*The question of reasonable care is not always straightforward – so from a fairness perspective it is useful to apply industry guidance to help decide what damage is chargeable and can fairly be deemed as beyond reasonable wear and tear. I can see here NF used the BVRLA standard when assessing if damages to the car on return were chargeable or not. I don't think that is an unreasonable thing to do – and although it is primarily aimed at cars at initial lease it can be useful in assessing second-hand cars too.*

*I know this is a second-hand car that already had high mileage on it when Mrs T took it. So I expect it naturally did have some damage/wear before Mrs T took the car. Therefore, I will take this into account in deciding what is fair.*

*I know Mrs T has indicated that NF sold the car at auction and got a lot less for it than it was worth. But that is not material here in my view. My focus is whether it has fairly charged Mrs T for damage to the car on her return of it.*

*I also note Mrs T says a seller at a later stage described the car as 'mint'. However, this is not persuasive in showing that NF can't fairly apply charges for damage here. If that was the description (and I don't have persuasive evidence that it was) it might be that the description was simply incorrect or that work was done on the car shortly before sale to improve the condition.*

*I have looked at the report carried out by NF after return of the car and note there are 15 areas of damage identified along with a missing rear shelf cover. This totals £2,680 in repairs.*

*I accept that items 1 (poor paint job) and 3 (bonnet chip) are not supported by clear photographic evidence. However, all the other photos show the following (which are prima facie chargeable items under the BVRLA guidance):*

- *Scratches longer than 25mm (4, 7, 8, 9, 12, 13, 15)*
- *Scratches under 25mm but appear to be through the paintwork (14)*
- *Wheel facia or rim scuffs over 50mm (2,6,10)*
- *Areas of over 4 surface scratches on a panel (5,11)*

*Even if I remove items 1 and 3 from the total charges this is £2,460. I am unclear if Mrs T is disputing if the car was returned with a missing rear shelf or not, but this would still only reduce the charges to £2,210 in any event.*

*So prima facie £2,210 - £2,460 is the starting point here for charges which go beyond fair wear and tear according to the BVRLA guidance. However, I go back to what Mrs T said about pre-existing damage and the mileage of the car on supply – which I consider fair to factor in here. There is no way of knowing exactly what damage was present when Mrs T leased the car and what came later, however, I look at things on the balance of probabilities. In doing so I think it more likely than not Mrs T's use of the car contributed equally or more than equally to the damage on the car. I say this because over the life of the car she has more than doubled the mileage. It seems extremely unlikely during her use of the car none of this damage could be attributed to her use.*

*This is not a science but even if I accepted that 50% of the damage could be put down to previous users this still leaves Mrs T with a far greater liability than £550. Furthermore, Mrs T*

*has not submitted persuasive evidence that £550 is excessive considering the likely cost to put right the damage and/or the likely devaluation of the car as a result of said damage. It follows that I think NF does not have to fairly reduce the damage charges below £550 here.*

I didn't uphold the complaint.

NF did not comment further on my decision.

Mrs T says, in summary, that NF as a contract provider has a responsibility to check what the car is being used for and to make the customer aware '*within the contract, all factors that will be considered if it is used for any use other than it was intended. The BVLRA guidelines and the title 'taxi' should not be used in hindsight as it leaves me as a customer at an uninformed disadvantage'.*

**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.

Neither party has given me cause to change my provisional findings – which I still consider fair for the reasons already given (above). These findings now form my final decision alongside the points below:

In her response to my provisional findings Mrs T has referred back to the sale of the agreement and the use of the car as a taxi. I appreciate this use as a taxi (and associated lack of declaration at point of sale) was a focus of the case before my involvement. However, I have already said in my provisional decision that the use of the car as a taxi is not a factor in my decision here - I consider it to be immaterial and am not upholding the complaint for other reasons. Nor, is this complaint more generally about the sale of the finance agreement and what was or wasn't said or done in relation to the particular use of the car. So I have not looked at those things in any detail here.

Ultimately, with these issues set aside, I am simply looking at whether it is fair and reasonable for NF to charge Mrs T £550 for damage under the terms of the contract she agreed with it. I have already explained in detail in my provisional decision why I think it is fair based on the condition the car was returned in and the relevant BVRLA guidelines.

For completeness I note that Mrs T has referred to the BVRLA guidance being used in 'hindsight' and appears to be indicating that it wasn't clear that this would be used in assessing damage charges. Something has to fairly be used to assess what is more than reasonable wear and tear – and considering the BVRLA guidance is used as an industry standard I don't consider it unfair that it was used here, or that its use has likely disadvantaged Mrs T in any event compared to some other way of assessing chargeable damage.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 2 October 2024.

Mark Lancod

**Ombudsman**