DRN-5191821

## The complaint

Miss J complains about the charges Stellantis Financial Services UK Limited ("SFS") applied when she returned a car at the end of her hire purchase agreement. She says the car was damaged when she acquired it, and she'd made the dealership aware of this.

## What happened

Miss J entered into a hire purchase agreement in June 2019 for a period of four years. At the end of the agreement, the car was collected and inspected by an independent third party, and it produced a vehicle condition report, which Miss J disputed. SFS invoiced Miss J for £829.54, in respect of damage and other issues identified in the report, but she says those charges are unfair, so she complained to SFS. Miss J says:

- The car was already damaged when she first acquired it in June 2019, and she raised this with the dealership at the time;
- the dealership agreed to carry out some repairs, but it made things worse; it resprayed the car with paint that didn't match, and the quality of the respray was poor; and some of the other remedial actions it undertook were substandard;
- the agreement was mis-sold because she wasn't told that she'd be responsible for any damage when she returned it at the end of the agreement;
- and the agreement was set up incorrectly, because it should've been set up over 3 years and not 4 years;
- she didn't cause any damage to the car, and the whole situation is harming her health.

SFS considered Miss J's complaint and said it would remove £162.00 from the damages invoice. It said that having reviewed the charges, it didn't feel there was sufficient evidence of the stated damage to either the left quarter panel or the front mirror housing. But it said it was satisfied that the remaining charges were chargeable.

It said under the terms of Miss J's agreement, she needed to return the vehicle with no damage outside of fair wear and tear; as outlined by the BVRLA – the industry trade body which provides details of what can be deemed to be fair wear and tear. And it explained that it had reviewed the photographs and the inspection report provided by its collection agent and it was satisfied that the identified damage was clearly evidenced and was outside fair wear and tear.

SFS explained that *"End of lease charges are applied when the vehicle, equipment, and accessories are not used, maintained, or looked after as originally agreed at the start of the lease or contract. These charges compensate the leasing company for the cost of rectifying damage and replacing missing items…Charges can still be applied at the end of the lease in cases where the leasing company or service provider decides for commercial reasons not to repair damage or to replace missing equipment before the vehicle is sold".*

SFS told us that in June 2022, Miss J had complained about the condition of the car's paintwork, and she'd explained at the time that she'd had two paint jobs completed by the supplying dealer, both of which had been of poor quality. SFS rejected this complaint, saying

it had seen no evidence of any remedial work being undertaken by the dealership, and said it had issued its final response letter on this matter on 29 July 2022.

SFS said as part of its end of agreement process, it had written to Miss J in June 2023 to remind her that the car needed to be returned in a satisfactory condition to avoid any damage charges, and it provided some her with some common examples of chargeable items and their associated costs. It said it also provided her with a copy of the BVRLA industry fair wear and tear guide.

Our investigator looked at this complaint and said he didn't think it should be upheld. He said that from what he'd seen, all parties accepted that the itemised damage was present – there was no dispute about the actual damage to the car. What was disputed was when this damage occurred. Miss J's position was that the damage to the car was present at the point of supply in 2019, and because of this she shouldn't be liable or responsible for it. SFS' position was that in signing the credit agreement, Miss J had confirmed that the car was supplied, and it was of satisfactory quality; so, the damage occurred after its supply and as a result, Miss J was liable and responsible for it.

Our investigator concluded that in the absence of any evidence to suggest that the damage, identified at the inspection when the car was returned in 2023, was present when the car was first supplied in 2019, he wasn't able to say that it was unfair of SFS to hold Miss J liable for the damage, and he was satisfied it had acted fairly and reasonably in the circumstances.

Miss J responded and said that the credit agreement relied on by our investigator was not one she'd seen or signed, and she said she'd never agreed to a 4-year hire purchase agreement.

Our investigator reviewed the evidence again and provided Miss J with a copy of the 4-year hire purchase agreement that she'd signed.

He went on to explain that the complaint Miss J had made to SFS in 2022 about the damaged paintwork was not something this Service could look at. He explained that SFS had issued its final response to that complaint in July 2022, and Miss J had six months in which she could bring her complaint to this Service – so she needed to bring her complaint about this matter to us by January 2023. And because she'd not brought this aspect of her complaint to us until November 2023, it was out of time. Simply, it was outside of our jurisdiction, and it was not a complaint we could consider.

He said he'd looked again at the inspection and charges that SFS had applied, and he was satisfied that they'd been fairly charged.

Finally, he advised Miss J that the new complaint points she'd raised – the mis-selling of the finance agreement – needed to be raised with SFS first of all. He explained that this Service cannot investigate a complaint unless the business – in this case SFS – has had the opportunity to investigate the matter first of all.

My initial conclusions are set out in my provisional decision from November 2024. In it I said I thought this complaint should be upheld and I explained my reasons for this as follows:

*"Our investigator was correct when he explained some of the limitations about the complaints this Service can consider. Put simply, unless there's exceptional circumstances which prevented someone bringing a complaint, this Service can't consider a complaint where more than six months has elapsed since the business issued its final response letter.*

*Furthermore, if complaint points haven't been raised with the business first of all, then this Service wouldn't usually consider such a complaint. This is because it's important that the business has the opportunity to investigate concerns first.*

*So, taking all of this into consideration, I'm only considering whether the charges SFS asked Miss J to pay were applied fairly and in line with relevant industry guidance.*

*The terms and conditions of the agreement say that Miss J must keep the vehicle in good condition. Section 6 of the agreements sets out Miss J's obligations as follows:*

*"6.1. solely liable for any loss or damage to the vehicle...keep the vehicle in good condition (see clause 18), carry out repairs and replace parts when necessary and maintain and service the vehicle in accordance with the manufacturer's recommendations".*

*And the agreement goes on to state in Section 9, that Miss J will be liable for SFS' costs in respect of "carrying out repairs which are needed to put the vehicle in good condition following its return…".*

*So, I'm satisfied that Miss J was responsible for returning the car in good condition, but the question I have to address is whether all the charges applied by SFS are fair and reasonable.*

*Fair wear and tear guidelines have been issued by the British Vehicle Rental and Leasing Association (BVLRA) and these are accepted as an industry standard in determining whether any damage goes beyond fair wear and tear. So, I have taken these into account when deciding what is fair and reasonable for SFS to charge Miss J.*

*SFS said a third-party collection agent had inspected the car against the industry standards set out in the British Vehicle Renting and Leasing Association (BVRLA) guidelines and identified issues in a number of areas.*

*The inspection report details 16 areas of damage, most of which are to the car's exterior. But seven of these items are annotated as "Report Only", and there is no charge associated with them, so I've not needed to consider them at all.*

*The remaining nine items on the report were recorded as being beyond BVRLA's guidelines; the damage for each goes beyond fair wear and tear, and consequently, they were chargeable. Miss J disputed these charges when she first complained to SFS, and it agreed to remove these charges:*

- *Quarter Panel L - Rippled finish; and*
- *Front Door Mirror - Paint Flaking.*

*It said having reviewed everything, it "did not feel there is sufficient evidence to levy these charges".*

*Because of this I only need to make a finding in respect of the seven remaining disputed charges. And these are as follows:*

1. *Parcel Shelf Strap L - Broken* *£39.54*
2. *Front Wing R - Rippled Finish* *£122.00*
3. *Front door R - Dirt in paint* *£122.00*
4. *Rear Bumper - Paint flaking* *£75.00*
5. *Front wing L - Rippled finish* *£122.00*
6. *Quarter panel L - Corrosion* *£122.00*
7. *Front Alloy Wheel L - Corrosion/Rust* *£65.00*

*I've looked very carefully at the photographic evidence that SFS has provided, and I'm satisfied that some of the areas of damage identified do exist and that the damage is indeed outside fair wear and tear. So, I think some of the charges should apply. But there's also alleged damage that I've not yet seen persuasive evidence of and, subject to significantly clearer evidence, I don't think some of the other charges should apply.*

*Passenger area, seats, headrests and trim (charge 1)*

*The BVRLA guidance says, "The interior upholstery and trim must be clean and odourless with no burns, scratches, tears, dents or staining".*

*SFS has supplied two photographs of the Parcel Shelf Strap that it says is broken. I've looked at them very carefully, expanding the photographs on a very large monitor, but I simply cannot see the damage identified in the report. So, subject to clearer and better evidence, I don't think this charge can be applied, and I'm going to ask SFS to remove it.*

*Paintwork, vehicle body, bumpers and trim (charges 2, 3, 4, 5, and 6 above)*

*The BVRLA guidance says that "… flaking paint, preparation marks, paint contamination, rippled finish or poorly matched paint, is not acceptable".*

*Again, I've looked very carefully at all the photographs provided by SFS, and although I'm satisfied there's evidence of paint flaking on the rear bumper (charge 4); and the zebra boards support the finding of a rippled finish on the front left wing (charge 5), I simply cannot see any evidence to support charge 2, charge 3, or charge 6. So, again, subject to clearer and better evidence, I don't think these three charges can be applied, and I'm going to ask SFS to remove them.*

*Alloy and Wheels (charge 7)*

*The BVRLA standard says "Any damage to the wheel spokes, wheel fascia, or hub of the alloy wheel is not acceptable. There should be no rust or corrosion on the alloy wheels."*

*SFS provided photographs from the inspection, that it says support the levying of a charge in respect of corrosion/rust on the front left alloy wheel. I simply don't agree. I say this because the evidence I've looked at does not satisfy me that this damage is present. So, subject to clearer and better evidence, I don't think this charge can be applied, and I'm going to ask SFS to remove it."*

And I asked each party to let me have any further information that they'd like me to consider.

**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.

I've not heard from either party with any new additional information, and the deadline for providing new information has now passed. And so, as neither party has provided new, or further information to alter my opinion of this complaint, I see no reason to depart from my provisional findings.

**Putting things right**

Given all of the above, I don't think that the majority of the charges SFS asked Miss J to pay were applied fairly and in line with the relevant industry guidance. Because of this, I'm going to ask it to cancel the following charges and adjust its invoice accordingly:

- Parcel Shelf Strap L - Broken £39.54
- Front Wing R - Rippled Finish £122.00
- Front door R - Dirt in paint £122.00
- Quarter panel L - Corrosion £122.00
- Front Alloy Wheel L - Corrosion/Rust £65.00

**My final decision**

My final decision is that I uphold this complaint and require Stellantis Financial Services UK Limited to remove the charges I've identified from Miss J's end of contract charges invoice.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 3 January 2025.

Andrew Macnamara
**Ombudsman**