DRN-5198486

The complaint

Mr O complains about the application of damage charges by Lendable Ltd trading as Autolend ("Autolend") after he voluntarily terminated his finance agreement.

What happened

In February 2022, Mr O took out a hire purchase agreement with Autolend for a car. In 2024, he exercised his right to voluntarily terminate it and return the car.

Autolend arranged for the car to be inspected and then sent Mr O a bill of £1,958 for what they considered to be damage to the car caused by him. This was itemised as follows:

(a) Dent on o/s/r quarter panel - £45
(b) Poor previous repair on bonnet - £260
(c) Poor previous repair on o/s/f wing - £180
(d) Broken bumper front moulding - £33
(e) Dented o/s/f door - £40
(f) Scratched n/s/f door – £33
(g) Medium scuff on o/s/f wheel - £59
(h) Poor previous repair on bumper – £228
(i) Dented n/s/r quarter panel - £45
(j) Scuffed n/s/r wheel - £59
(k) Mechanical polish full exterior - £100
(l) Poor previous repair on rear bumper - £228
(m) Scuffed n/s/f wheel - £59
(n) Scuffed o/s/f wheel - £59
(o) Dented roof - £400
(p) Missing parcel shelf - £130

Mr O complained to Autolend as he didn't agree he should be liable for the charges. Autolend upheld the complaint in part. They said that all the charges were fair and in line with their fair wear and tear policy apart from the charges I have listed above under (a), (c), (e), (f), (h), (i), (j), (k) and (l). Autolend adjusted Mr O's bill to £958.

Mr O continued to dispute the remaining charges and said Autolend hadn't made it clear what he was liable for. Autolend then said to him he was liable for the charges under (b), (d), (g), (m), (n), (o) and (p), and said that the charge under (g) was for a medium scuff on the o/s/r wheel, not the o/s/f wheel as they had previously said. Autolend then reduced the bill to £870, saying that Mr O remained liable for the charges under (b), (d), (g), (m), (n) and (o).

Mr O referred his complaint to our service. Our investigator upheld it. He said, in summary, that Autolend hadn't shown sufficient persuasive evidence that Mr O had caused damage to the car outside of reasonable fair wear and tear other than the charge of £33 for the broken front moulding on the car's bumper. Mr O accepted he was liable for this charge, but Autolend didn't agree with our investigator. They said they sold the car at auction for £2,630 less than its expected value considering its age, mileage and its depreciation of value. And they had charged Mr O less than that in line with their policy.

Our investigator didn't change his opinion and said that sale prices at auction weren't factored into the liability a consumer has under the Consumer Credit Act 1974 ("CCA") when they voluntarily terminate a hire purchase agreement. And he reiterated that he hadn't seen clear enough evidence that the charges, other than that of the front bumper moulding, were the liability of Mr O.

Autolend didn't agree and asked for an ombudsman's 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.

Sections 99 and 100 of the CCA set out the rights consumers have to voluntarily terminate their hire purchase and conditional sale agreements and the liability that is due on termination. I consider these relevant to determining what is fair and reasonable here.

Section 99 of the CCA refers to a consumer's right to terminate a hire purchase or conditional sale agreement by giving notice. It states:

> *"99 Right to terminate hire-purchase etc. agreements.*
>
> *(1) At any time before the final payment by the debtor under a regulated hire-purchase or regulated conditional sale agreement falls due, the debtor should be entitled to terminate the agreement by giving notice to any person entitled or authorised to receive the sum payable under the agreement.*
>
> *(2) Termination of an agreement under subsection (1) does not affect any liability under the agreement which has accrued before the termination….."*

Section 100 of the CCA sets out the consumer's liability on termination:

> *"100 Liability of debtor on termination of hire-purchase etc. agreement*
>
> *(1) Where a regulated hire-purchase or regulated conditional sale agreement is terminated under section 99 the debtor shall be liable, unless the agreement provides for a smaller payment, or does not provide for any payment, to pay to the creditor the amount (if any) by which one-half of the total price exceeds the aggregate of the sums paid and the sums due in respect of the total price immediately before the termination….*
>
> *(4) If the debtor has contravened an obligation to take reasonable care of the goods or land, the amount arrived at under subsection (1) shall be increased by the sum required to recompense the creditor for that contravention….."*

The 'TERMINATION: YOUR RIGHTS' section of Mr O's hire purchase agreement refers to the liability that is due on termination which in this case was £9,635.79. This section also set out that the liability wouldn't change if Mr O took *'reasonable care of the goods'.* Other sections of the agreement Mr O had with Autolend referred to the liability on voluntary termination, including where damage charges may increase the final liability. The relevant section for this is under clause 9: *'Use and care of the vehicle',* which says amongst other things that Mr O is '*responsible for making good any damage or loss to the Vehicle'* and that he will compensate Autolend *'for any loss arising as a result of'* his use of the car.

So, taking into account section 100(4) of the CCA, I'm satisfied that Autolend was in theory

able to increase the amount owed under section 100(1) to compensate themselves if Mr O failed to take 'reasonable care' of the car.

I've considered Autolend's return standards which Mr O agreed to. I've also taken into account the relevant industry standards from the British Vehicle Rental and Leasing Association (BVRLA) where necessary.

I've seen that an inspection was carried out on the car after Mr O returned it. I've looked at a copy of this and it doesn't seem Mr O was present when the inspection took place. This is relevant because Mr O couldn't dispute any of the charges Autolend subsequently billed him for, until he received that bill. So, it wasn't as if Mr O accepted he had caused damage to the car when he returned it and before the inspection took place.

Having said that, it would only be fair for Mr O to be held liable for any damage caused outside of fair, wear and tear. I think Autolend's position on Mr O's liability is weakened though by a few points. The first is that there appears to be no documentation showing the condition of the car when it was supplied to Mr O. Bearing in mind this was a used car that had travelled over 76,000 miles, it would have been in a condition commensurate to its age and mileage. And it's quite possible that some of the items Autolend billed Mr O for were things already present when he got the car. I'm not saying that was the case, but I can't discount that possibility.

Secondly, Autolend made a bit of a mess of determining and explaining what was chargeable to Mr O. I've set out in the first section of my decision how Autolend went about this, and they ultimately waived a lot of the charges they initially levied. So, it's unclear to me that Autolend even knew what was billable and what wasn't.

And, more crucially, the photos of the alleged damage that was shown in the copy of the inspection report don't, in my view, clearly show that damage was likely caused by Mr O outside of reasonable fair wear and tear. None of the photos other than the one showing damage to the front moulding of the bumper are detailed, clear or distinct enough to show me this. The photo that's meant to show the dent on the roof doesn't show me a dent; rather it shows lighting used in the inspection and reflections of that lighting. The photos showing alleged scuffs to the wheels don't clearly show me the length of the scuffs so that I could say these were outside of either the BVRLA guidelines on fair, wear and tear or Autolend's own version of this.

I also think that the poor previous repair to the bonnet can't be described as fair wear and tear; rather it's an allegation that the repair has left the car in an unfit or unrepaired state. But even if this was a fair charge to levy, that would only be so if I thought there was sufficient evidence of this. The photo I've seen just shows a ruler and a rather indistinct image of what the issue seems to be. I can't tell that this is because of the issue that Autolend claims it to be.

So, having considered the matter, I agree with our investigator that Autolend can only hold Mr O liable for the £33 charge for the damage to the front bumper moulding.

I've taken into consideration Autolend's comments about the value they achieved at auction. But Mr O's liability is determined by the sections of the CCA that I've referred to above. And for the reasons I've set out, I've not seen sufficient evidence that Mr O failed to take reasonable care of the car, other than for the damage caused to the front moulding of the bumper.

Putting things right

I'm unsure if Mr O has paid anything to Autolend in respect of this issue. If he has, and that exceeds £33, then Autolend should refund that excess back to him, with 8% simple interest each year from the date of payment to the date of settlement. If Mr O hasn't paid anything yet, then Autolend are only entitled to hold Mr O liable for £33.

My final decision

I uphold this complaint and direct Lendable Ltd trading as Autolend to take the action I've set out in the 'putting things right' section of my decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 8 August 2025.

Daniel Picken
Ombudsman