

## **The complaint**

Mr B complains that Ald Automotive Limited unfairly invoiced him for end of contract charges when a hire agreement for a car ended.

## **What happened**

In July 2019 Mr B entered into a four-year hire agreement for a nearly new car with Ald. In July 2023 the agreement was extended to March 2024.

Unfortunately, at the beginning of February 2024, as Mr B was leaving a garage forecourt the car suddenly broke down. Ald arranged for a roadside assistance company to attend. The roadside assistance company said the car was not drivable as due to a component failure there was damage to the engine block.

Arrangements were made for the car to be taken to a manufacturer approved dealership for repairs. The dealership wasn't able to take the car for around three weeks and so Mr B had to leave the car at the garage where it had broken down having got its permission to do so.

The car was collected, and the damage investigated by the dealership. It was not considered that the damage to the engine was Mr B's fault. However, it was found that due to the extent of the damage that had occurred a new engine was required and the cost of this meant it was uneconomical for Ald to repair the car.

Ald credited Mr B's account with the rental he had paid for February and the agreement ended in March 2024.

Ald then arranged for the car to be collected by a third-party company for inspection as to its condition and for it to then be sold at auction. An end of contract condition report was prepared and a number of areas of damage to the car's bodywork and alloys was noted. The damage was considered to be beyond fair wear and tear and an end of contract damage invoice was sent to Mr B in the sum of £1,213.69.

Mr B complained to Ald about the charges as the car had been considered a write-off and he said it wasn't fair to ask him to pay for repairs that Ald weren't going to carry out. He also said due to the car breaking down he'd had no choice but to leave it on the garage's forecourt where the recorded damage could have occurred.

Ald didn't uphold Mr B's complaint. It said that it in line with the terms and conditions of the hire agreement the car had been collected and inspected by the third-party company. Damage noted to the car's bodywork and alloys was assessed against the British Vehicle Rental and Leasing Association (BVRLA) guidelines as to whether or not it was fair wear and tear. It said that the damage found to the bumpers, alloys, a door, a wing and the roof had all exceeded the limits set out by the BVRLA and was chargeable.

Ald said that the agreement also set out that charges would still be applied in cases where it decided for commercial reasons not to repair or replace missing equipment before the car was sold. It said that as there had been a credit on Mr B's account the outstanding charges

owed by him were £1,090.78 which included an additional discount of £13.82 in respect of one of the alloys.

Mr B was unhappy at Ald's response and complained to this service. He said that as the car was a write-off Ald was acting unreasonably and unfairly in applying these end of contract charges.

Our investigator didn't recommend that Mr B's complaint should be upheld. She said it had been a commercial decision by Ald not to repair the car due to the cost but she thought, when looking at the value of the car and the cost of replacing the engine, that this had been a reasonable conclusion for it to have reached.

Our investigator said that under the terms and conditions of the agreement it was Mr B's responsibility to maintain the interior and exterior of the car and that at the end of the agreement, the car would be assessed as to its condition using the criteria set out under the definition of Fair wear and Tear. She said that the condition of the car had been fairly assessed using the BVRLA guidelines.

Although Ald hadn't had the car repaired, our investigator said this didn't prevent it from charging Mr B for the damage that was found to have been beyond fair wear and tear. This was because the condition of the car would impact on its value and here the damage to the bodywork and alloys would affect its sale price as well as the damage to the engine. She said Ald had been entitled to charge Mr B.

Mr B disagreed with our investigator's view. He said while he accepted that Ald had the right to sell parts from the car it was unfair to charge him over a £1000 for a vehicle it wouldn't be able to use as that made no sense. He said he thought Ald had gone beyond its remit.

### **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.

It isn't disputed here that the car that Mr B had hired suffered significant damage to its engine due to no fault of Mr B. It also isn't disputed that Ald made the commercial decision not to have the car repaired but rather sell it as it was at an auction. I think it's reasonable to conclude that Ald must have incurred a loss on the car's sale in respect of what would have been its expected value had the engine not developed the fault compared to its value with the fault.

Mr B says that as the car wasn't usable then it isn't reasonable for Ald to charge him for the damage that was found to its bodywork and alloys when the agreement ended. But while I appreciate this will be of disappointment to him, I disagree, and I will explain why below.

The hire agreement entered into by Mr B was clear that he was responsible for maintaining the car in a reasonable condition and that he would cover any repair or maintenance costs. This would also mean that Mr B remained responsible for the condition of the car when it was waiting collection at the garage forecourt having broken down.

It was also in line with the agreement's terms and conditions that at the end of the agreement the car would be inspected, and Mr B would be liable for the cost of repairs for any damage found that was beyond fair wear and tear. Whether Ald repaired the car or not didn't affect Mr B's liability for those charges. This is because damage to a car will have an impact on its value, so it allows a business to recoup its losses.

Here the damage that Mr B has been charged for is all unrelated to the engine, and even though the car's value would have been significantly reduced by the engine fault, damage to the bodywork and alloys that wasn't fair wear and tear given the age and mileage of the car would have had an impact too. So, I can't reasonably say that Ald acted unfairly in seeking to invoice Mr B for the damage.

Looking at the damage that was found and the BVRLA guidelines, I am also satisfied that what was found was beyond fair wear and tear. The BVRLA guidelines are the industry standard as to what is and isn't considered to be fair wear and tear. Ald has provided a number of detailed photos that show the condition of the car when collected.

In respect of the damage to the nearside front and rear alloys, I can clearly see scuffing beyond 50mm around the circumference and damage to the spokes. This damage doesn't look new and given that the car was not usable when left on the forecourt until collected by the dealership, I think it's likely to have happened when Mr B was driving the car. I think the costs of £233.69 and £100 are chargeable.

Mr B didn't supply the spare key when he handed the car back. This is chargeable under the BVRLA guidelines. I've seen Ald gave Mr B the opportunity to post it in following its final response letter, but I haven't seen any evidence that he did so. I therefore think it was fair for Ald to charge £175 for this missing key.

In respect of the scratches to the front bumper and car roof, the photos clearly show these are in excess of 25mm. Given that Mr B had the car since 2019, I think it's more likely than not that the damage was caused when he was using the car rather than following its breakdown. I think the charges of £120 for each of these areas of damage are reasonable.

In respect of the damage found on the rear bumper, offside front door and offside front wing, again the photos clearly show dents and paint damage. This damage does not appear new, and I'm satisfied that its more likely than not to have occurred while Mr B was driving the car. The damage is in excess of what would be considered fair wear and tear and the charges of £155 for each of these three areas of damage are fair.

So, even though Ald wouldn't be using the car itself, I think it was still entitled to charge Mr B for the damage to its bodywork and alloys. This was in accordance with the agreement and reflected that it was likely this damage would have had an impact on the car's value notwithstanding the fault with the engine.

I've also seen that Ald had credited Mr B's account with the rental payment he had made for the car in February 2024 when he hadn't been able to use the car which I think was fair. It also made a further adjustment to the cost of one of the alloy repairs. The outstanding balance for the end of contract charges is £1,090.78 and I'm not going to ask Ald to adjust that further.

For the reasons set out above, I'm not upholding Mr B's complaint.

### **My final decision**

For the reasons given above, I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 March 2025.

Jocelyn Griffith

**Ombudsman**