

complaint

Mr T is unhappy with the damage charges Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance (MBFS) asked him to pay when he returned a car at the end of his hire agreement.

background

The background to this complaint and my initial conclusions, were set out in my provisional decision dated 8 July 2019 – a copy of which is attached and forms part of this final decision.

I asked both parties to provide any more comments or evidence before I reconsidered the complaint and issued a final decision.

Mr T replied saying he had nothing further to add.

MBFS replied saying they disagreed with my finding regarding the tyre on the left hand rear (LHR) wheel. They provided an email from their relevant team who confirmed they had replaced the tyre, along with a job sheet confirming the same – so they felt applying this charge was fair.

I let Mr T know about the new evidence MBFS had provided, and that based on this, I intended to say MBFS could fairly charge for replacing the tyre. Mr T said he disagreed with this, saying he felt it was unfair for the following reasons:

- MBFS should've provided the evidence earlier
- he questioned whether the evidence provided by MBFS is genuine
- he feels the nail should be considered fair wear and tear considering the length of time he had the car, and
- that the tyre didn't need replacing following his repair

my findings

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

I've reviewed MBFS' response along with the job sheet they've provided and the email from the relevant team who completed the work on the car. And I've carefully considered the points that Mr T has raised.

I agree that it would've been better customer service for MBFS to provide this evidence when the damage charge was initially challenged by Mr T before the complaint came to our service. But having reviewed the job card I'm persuaded that it is genuine. I say this because it has the correct vehicle registration details and description on it, and the date matches with when the work was completed in 2018. It also looks like other job cards that I've seen.

I explained in my provisional decision that BVRLA guidance says there must be no damage to the sidewalls or tread on the tyre. And that I considered a nail in the tyre tread to be outside what I'd consider to be fair wear and tear, even taking into account how long Mr T had the car. I haven't seen anything that persuades me I should reach a different finding on this point. And while I appreciate that Mr T feels his repair should be enough to address the

issue, I think it's unlikely that MBFS would've replaced the tyre if it wasn't necessary. Having reviewed everything I'm satisfied that it is an actual cost that MBFS has had to account for.

So, having considered everything, I think it's fair for MBFS to charge Mr T for the cost to replace the tyre on the LHR wheel.

Therefore, MBFS should remove the cost of refurbishment and polishing of one of the alloy wheels at £85, as it's already agreed to do. But I think it can fairly charge for the refurbishment of the remaining two alloys on the LHF and RHF wheels, and for the replacement of the tyre on the LHR wheel.

my final decision

My final decision is that I uphold this complaint.

To put things right Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance should:

- reduce the total damages charges it is seeking from Mr T by the cost related to the refurbishment and polishing of the alloy on the left hand rear (LHR) wheel – stated as £85

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 22 December 2019.

Lisa Lowe
ombudsman

provisional decision

complaint

Mr T is unhappy with the damage charges Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance (MBFS) asked him to pay when he returned a car at the end of his hire agreement.

Background

Mr T hired a new car from Mercedes-Benz Finance on a 36 month hire agreement. On returning the car at the expiry of the agreement, MBFS invoiced Mr T for £426.50 in damage charges. This invoice included refurbishing and polishing alloys on three of the four wheels at £85 each – left hand front (LHF), right hand front (RHF) and left hand rear (LHR). There was also a charge to replace the tyre on the left hand rear (LHR) wheel, at £171.50.

MBFS said the alloys on three of the wheels (LHF, LHR, RHF) had gouges up to 2mm over 20% of the rim and that the tyre on the LHR wheel had damage to the wall of the tyre – meaning it had to be replaced. It said that under its “vehicle returns standards”, which were part of Mr T’s hire agreement, it’s entitled to charge for these damages.

Mr T felt these charges were unfair and not proportional, and that an allowance should be made for the enhanced value of the car due to the low mileage he’d completed. Mr T also said that he had replaced the damaged tyre and asked that MBFS remove the cost for that tyre from the invoice.

MBFS said that the inspector who checked the car on its return noted that both LH alloys and the RHF alloy wheel had collective damage totalling 20% of the alloy wheel circumference – which matched the pictures taken at the time.

MBFS agreed to remove the charge for the replaced tyre if Mr T provided them with an invoice, confirming he’d had the tyre replaced.

Mr T provided an invoice to MBFS, but MBFS said that as the invoice only denoted a repair to the LHR tyre and not a replacement, they wouldn’t remove the cost from the invoice.

Mr T wasn’t happy with this, so he brought a complaint to our service.

Ultimately the investigator agreed that damage on the alloys of two of the wheels, and the damage to the tyre fell outside MBFS’s vehicle returns standards and BVRLA guidelines – and she thought it fair that MBFS could charge for this. But based on the photo, she didn’t think that damage on the alloy for the LHR wheel fell outside the guidelines – so she didn’t think it fair that MBFS were seeking to charge Mr T for this. MBFS agreed to remove the £85 charge for damage to the LHR alloy– reducing the total charges to £341.50.

Mr T disagreed with our investigator, he says the photos don’t definitively show the gouges were outside the BVRLA guidelines – so all the charges should be removed. And that if he’d replaced the tyre before inspection there wouldn’t have been a charge. But, because he’d done it between inspection and collection MBFS had charged him. So Mr T asked for an ombudsman to review his case.

my provisional findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. At this stage I’m minded to uphold the complaint but with different redress to that recommended by the investigator, and I’ll explain why below.

The British Vehicle Rental and Leasing Association (BVRLA) has produced industry guidance to help determine what is fair wear and tear, versus chargeable damage. And I've taken this into consideration, along with the terms and conditions, what both parties have told us and any evidence they've provided when deciding whether MBFS has acted fairly here.

the damage to the alloys

The BVRLA guidance indicates that minor scuffs and scratches to alloy wheels are acceptable, but that dents, holes or scuffs to the trim totalling over 50mm are not. MBFS's vehicle returns standards (VRS) says minor scuffing or damage under 25mm to the vehicle alloy or steel rim edge or wheel face is acceptable.

Having looked at the photos there is clear scuffing on the LHF and RHF alloys. And, I'm satisfied that they exceed the guidelines set in both the vehicle returns standards that Mr T agreed to and the BVRLA guidelines – so totalling over 50mm. I'm not persuaded that the number, size and overall amount of scuffing shown in the photos is what I'd consider reasonable wear and tear based on the age of the car and the mileage Mr T completed.

MBFS have already agreed to remove the charge for the refurbishment and polishing of the LHR alloy – which is reasonable in the circumstances, as the scuffs or gouges in this photo are less clear than on the other alloys.

the damage to the tyre

The BVRLA guidance says any damage to the wheel spokes or alloy hub is unacceptable and that there must be no damage to the sidewalls or tread on the tyre. MBFS's vehicle returns standards (VRS) says any gouge, crack, cut, torn or plugged tyre side wall isn't acceptable, and neither is any scuff chips and scratches exceeding 25mm.

I note that MBFS' VRS differs to what is set out in the BVRLA guidelines as to what constitutes acceptable or fair wear in tyres, as MBFS' VRS further defines what it considers to be not acceptable and this includes "plugged" tyres.

MBFS told Mr T that if he'd replaced the tyre on the LHR wheel, they wouldn't have charged him. But that the invoice Mr T provided showed the tyre as being repaired, and not replaced.

Having looked at the photo's provided by MBFS I can't see what I'd consider to be damage to the sidewall of the LHR tyre, or a cut as it's described in their vehicle inspection report. There is some scuffing, but this falls within the level of wear and tear I'd expect on this car considering its age and the mileage it's done. But I can see a nail in the tyre tread – which is outside what I'd consider to be fair wear and tear.

But Mr T says that following the inspection, he took the car to a garage and had the tyre repaired. He has provided an invoice to show that the garage carried out "puncture repair". And although this shows that there was a repair rather than a tyre being replaced, this was done after the inspection. I acknowledge that this might still not meet MBFS' own return standards, but I did wonder if it had been sufficient so as to resolve the issue. So I asked MBFS whether it could show that it had in fact replaced the tyre on the car's return, but they were unable to do so in this particular case.

So based on what I've seen I think it's possible that Mr T's repair to the tyre remedied the issue with the nail. And in this particular case, given the fact that the repair might have resolved the issue and MBFS can't demonstrate that it replaced the tyre, on balance, I don't think it is fair for MBFS to charge Mr T to replace the tyre – so I intend to ask MBFS to remove this charge of £171.50.

Mr T has raised a point about not having used his mileage allowance under the hire agreement - saying he feels this increases the value of the car, so he's asked that this be offset against the

damage charges. I can understand Mr T's frustration here as he hasn't driven the car nearly as much as he expected. And I appreciate the car is likely to now be worth more than it would have been had Mr T travelled the maximum amount of miles permitted under the agreement. Mr T accepted the terms of the hire agreement when he entered into it, i.e. he would pay £345.26 each month in return for using the car up to 10,000 miles each year, pro-rated for part years. There is nothing in Mr T's agreement that suggests any rebate or refund will be given if he doesn't exceed his mileage allowance.

While MBFS may now achieve a higher resale value because of the lower mileage I'm not persuaded it would be fair or reasonable to require MBFS to offset the damage charges because of this.

So having considered everything, I think MBFS should remove the cost of refurbishment and polishing of one of the alloy wheels at £85, as it's already agreed to do, as well as removing the cost of replacing a tyre at £171.50. But I think it can fairly charge for the refurbishment of the remaining two alloy wheels.

my provisional decision

For the reasons I've explained above I intend to uphold this complaint. Subject to any further submissions I receive, I intend to ask Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance to do the following:

- reduce the total damages charges it is seeking from Mr T by the cost related to the refurbishment and polishing of the alloy on the left hand rear (LHR) wheel – stated as £85 and for the replacement of the tyre on the left hand rear (LHR) wheel stated as £171.50.

I invite both parties to provide me with any further representations that they may wish to make by 8 August 2019, after which time I will reconsider the complaint.

Lisa Lowe
ombudsman