

Credit Hire and Storage Claims - Fraud and Credibility Concerns

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Introduction

Credit hire and storage claims are proving some of the most difficult matters for Courts to adjudicate upon. With credit hire and storage fraud on the increase, Claimant and Defendant firms must be alive to this type of fraud and how to spot it. A poorly investigated or prepared hire or storage claim, can cause the Claimant enormous difficulties at Trial or Disposal. This article looks at some of the most common 'concerns' with hire and storage claims and how to tackle them.

Credit Hire and Storage Credibility Concerns?

- The hire or storage company does not exist.
- The hire company, appear to hire the same vehicle out, to two Claimants, at the same time i.e. one of the hire claims is bogus.
- The full period of hire claimed, did not take place.
- The vehicle alleged to have been hired, is not the vehicle actually hired to the Claimant. For example, the Claimant is provided with a less prestige vehicle, than the one claimed on the agreement.
- The hire company add extras onto the hire, such a Collision Damages Waiver, satellite navigation, insurance or an additional driver, and such services were not provided, to the Claimant.
- The Claimant's vehicle is not stored for the period claimed.
- Bogus credit hire or storage companies sometimes linked to claims management companies and other types of RTA fraud.
- The Claimant did not sign the hire agreement or someone else other than the Claimant, signed the credit hire, or storage documents, and it is suggested they were signed by the Claimant.
- The hire company suggest that the agreement was signed at the office of the hire or storage company, when in fact it was signed at the Claimant's home address or place of work, to get around the Cancellation of Contract Regulations.
- The hire vehicle, hired to the claimant did not have valid road tax, an MOT certificate or credit hire insurance, so it should not have been hired to the Claimant, in the first instance.
- The hire company, do not own the hire car, so they are not entitled to hire the car out, as a credit hire car.

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- If the hire vehicle hired, was a taxi, it did not have a the correct license from the local authority or insurance to cover the credit hire vehicle, to be used for hire or reward, so it should not have been provided to the Claimant for use as a taxi.

Problems for the Claimant?

- A problematic hire and storage claim, can affect the credibility, of an otherwise genuine claim. The Claimant may simply place the repairs or storage of the car into the hands of, what appears to be a genuine credit hire or storage company.
- Many County Court Judges do not like credit hire and storage claims, especially where the claims are high value and it appears as though, the credit hire company, is pressing or funding the litigation.
- If a finding of fraud is made a trial, the claimant's ATE provider is unlikely to indemnify the claim, leaving the Claimant with a large costs bill, as well as potential criminal implications for the Claimant. The Claimants Solicitor's costs recovery, are also likely to be limited in such circumstances.
- If a hire or storage claim is found to be a sham at trial, it is the Claimant who is likely to be ordered to pay the costs and not the credit hire, or storage company. The Claimant must be protected at all times. The Claimant must be advised in relation to the prospects of success of the hire and storage claim, if foul play is suspected.

How can this type of fraud be detected by the defendant?

- Many insurance companies now log the dates of hire and vehicles hired, for all new credit hire claims submitted, so they can detect if a vehicle is claimed to have been hired to two claimants, at the same time.
- The Defendant's insurance company will more often than not, instruct an investigator to visit the office of the hire, storage or claims management company, if it suspected the hire company or storage company does not exist. This information is then shared between insurance companies.
- The Defendant will make enquiries with the taxi licensing authority and local Council, to check the hire car had the appropriate license for public hire or reward.

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- The VAT registration number of the hire and storage number can be checked to ensure it is genuine. Enquiries can also be made with the credit hire companies insurer, to check if the vehicle had valid insurance and online checks can be made to check the hire vehicle, had a valid MOT, at the time of hire.
- Enquiries can be made of the DVLA to check whether the hire company, was the registered keeper of the hire car.

What can we do to prevent and detect this type of fraud?

- The short answer is that both Claimant and Defendant Solicitors need to check and vet the hire and storage claims carefully, upon receipt of instructions.
- Many Claimant firms receive personal injury referral cases, involving credit hire and storage claims, from credit hire, storage and claims management companies. Ensure you know your sources of work.
- One should not assume the hire and storage agreements are correct. Ensure the Claimant is sent copies of the original credit hire and storage agreements at the outset and a statement is taken from the Claimant to confirm:-
 - a) If the Claimant signed the hire/ storage agreement. If not, who did?
 - b) When and where, the agreement was signed.
 - c) If dates of the hire and storage are correct.
 - d) If vehicles hired to the Claimant are correct.
 - e) The address where the car was recovered to and stored, if applicable
 - f) If any extras such as CDW, or satellite navigation, have been claimed correctly.
- If there is any doubt, a statement should be obtained from the Claimant and the hire/ storage company, to explain any discrepancies.
- If there is any doubt the hire or storage company exists, the hire actually took place, as per the agreement or the Claimant's vehicle was actually placed in storage, for the period claimed, an investigator should be instructed to attend the premises of the hire and storage company to undertake the following investigations:-

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1. Obtain a signed statement from the credit hire company to confirm the vehicle(s) that were hired to the claimant, where the hire agreement was signed, who signed it and the dates of hire.
 2. Obtain photographs of the hire companies premises and hire vehicle (s) that were hired to the claimant.
 3. Obtain a signed statement from the storage company to confirm, the address where the Claimant's vehicle was stored, the dates it was stored from and to and if the storage company disposed of the vehicle, the full name and address of the person who it was sold, or passed on to.
 4. Obtain photographs of the storage facility, preferably with the Claimant's damaged vehicle, if it is still in storage.
 5. Obtain copies of the certificates of insurance, taxi licenses (if applicable), MOT certificates, V5 certificate or proof of ownership i.e. sales receipt and road tax badges, for all the vehicles hired to the Claimant.
- Check the VAT registration number of the hire and storage company online. This can be done at:-
http://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=E
 - Check whether the hire car has a valid MOT certificate online. This can be done at:-
http://www.direct.gov.uk/en/Motoring/OwningAVehicle/Mot/DG_10020539
 - A DVLA search can be carried out, to confirm if the hire company is the registered keeper of the hire vehicle. An application must be made to the DVLA explaining the reasons for the search.
 - Checks can be made with the hire companies insurer, to check if the hire vehicle had valid insurance at the time of the accident.
 - Checks can be made with the taxi licensing authority (usually the department of the local authority) to check whether the vehicle had a valid taxi license, if it was used for hire or reward, as a hire vehicle.

Any questions?

Andrew Mckie is a Barrister at Clerksroom specialising in claimant and defendant personal injury, credit hire, employment, costs and fraud.

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Andrew undertakes Claimant and Defendant instructions in personal injury and credit hire cases for the following types of work:-

- All types of interlocutory hearings including case management conferences, allocation hearings, pre-trial reviews and applications.
- Multi track, fast track and small claims track, trials and disposal hearings.
- MOJ stage 3 hearings.
- Infant approval hearings.
- All types of written advice and pleadings.

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