

The complaint

Mr B complains that Gresham Insurance Company Limited (Gresham) has unfairly declined his claim for storm damage to his roof under his buildings insurance policy. He would like the claim paid.

What happened

On 31 October 2021 there were very strong winds which Mr B says was reported on local news as a *"tornado"*. He says his roof was damaged with ridge tiles lifted and several slates were missing making a hole in the roof immediately beneath. He called Gresham the same day but says the call was disconnected, so he logged a claim online. Mr B says no one contacted him until three days later when Gresham's contractor (who I'll call H) called him. It said it wouldn't be able to inspect the damage for another two or three days. Mr B said as he hadn't heard anything, he'd already arranged for a roofer to come the next day as he was concerned about the hole and the potential for further damage if it rained.

H attended on 3 November 2021 after repairs had been made. It said the damage was a result of *"Age Wear Tear"* and should be declined. Gresham advised Mr B whilst it agreed there had been a storm with strong winds of up to 55 mph. But said it wouldn't be paying the claim due to wear and tear on the roof which had highlighted existing problems with it.

Mr B complained about the decision, saying his neighbour's roof, which was relatively new, had also been damaged with ridge tiles displaced. Gresham rejected his complaint. It agreed the neighbour's roof had also been damaged. But said Mr B's roof was at the end of its life, required replacement and all the damage was maintenance related, which the policy didn't cover. It said H had advised there were slipped slates due to *"nail fatigue"* and 14 lead tabs were visible, which were a temporary repair. It said photographs from Google street view from 2020 showed *"pretty much identical damage as now"*.

Mr B referred his complaint to our service and said Gresham was accusing him of fraud by saying the storm hadn't caused a hole in his roof and it should compensate him for this.

Our investigator looked into it and said the complaint should be upheld.

He said it was clear there had been a storm with winds strong enough to damage property. And he thought the damage visible on Mr B's photographs were consistent with storm damage. He said whilst Mr B's roof was old the onus was on Gresham to show that wear and tear was the main cause of the damage rather than the storm itself and he didn't think it had. He said the report from H was lacking in detail and evidence that there was *"nail fatigue"*. He said Mr B had acted reasonably in repairing the damage and mitigating any further loss.

Our investigator said a Google street view from 2018 showed the roof to be in near identical condition as in 2020. He said this was evidence that the roof was in reasonable condition before the storm. He said Gresham should pay Mr B's repair costs and add interest at 8% p.a. He said he'd seen no evidence that Gresham was concerned about fraud and Mr B had agreed that the inconvenience he'd suffered wasn't significant enough to award compensation.

Mr B accepted our investigators view saying his roof hadn't been damaged by subsequent storms, but Gresham disagreed. It made further points about the condition of the roof and the requirement for maintenance. Our investigator said his view hadn't changed.

As Gresham doesn't agree it has come to me to decide.

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 decided to uphold this complaint, I'll explain why. Buildings insurance policies don't usually cover all eventualities. What is and isn't covered is set out in the policy Terms and Conditions (T&C's). Mr B's policy doesn't cover wear and tear and requires that the property is kept in "*good order*", which are common exclusions and conditions in this type of policy. When an insurer seeks to rely on an exclusion to decline a claim as Gresham has done, the onus is on it to justify the decision. But I don't think the evidence available does so.

When our service considers a complaint about a storm claim, there are three main issues we consider.

First, do we agree that storm conditions occurred on or around the date the damage is said to have happened? There isn't any dispute over this, there was a dry storm with strong winds gusting to 55 mph.

Second, is the damage claimed for consistent with damage a storm typically causes?

Third, were the storm conditions the main cause of the damage?

As there is some dispute over the second and third questions, I need to consider whether the damage to the roof is typical of a storm, and that the storm was the main cause of the damage as Mr B thinks, or whether the damage was as a result of wear and tear and maintenance issues as Gresham say.

The report from H is very brief and was based on an inspection after the damage Mr B has claimed for had been repaired. There's no indication in the report that B accessed the roof for a close inspection to support its conclusions. The only evidence of the roof's condition immediately after the storm are Mr B's photographs, which show lifted ridge tiles and missing slates beneath. Gresham accepts that the neighbouring property with a much newer roof also suffered damage to its ridge tiles in the same storm.

Gresham has focused on the condition of the roof below the ridge tiles saying:

"nail fatigue is evident, so therefore any wind could uplift all the tiles, had they been in a good state of repair they would have withstood the wind."

Immediately beneath the loosened ridge tiles is a "hole", Gresham says a one-off storm would:

"not cause a hole to appear in the roof but would lift tiles or the roof itself, but not cause a hole in one incident".

And that this would have only happened over time and was due to lack of maintenance, but I don't agree. The hole has a regular outline from several missing slates. With the ridge tile sitting on top of these slates displaced it doesn't appear that there was anything to prevent the slates being lifted or torn away if caught by a strong wind.

The slates where the ridge tiles haven't been lifted don't appear to have slipped, slippage being an indication of "*nail fatigue*". Those that have and are supported by the lead tabs referred to by H, are lower down on the roof, but Mr B hasn't claimed for damage to that area.

Had the slates been missing for anything but a very short time the property would have suffered significant additional damage, but Mr B hasn't reported any. I think Mr B acted reasonably in repairing the roof without delay when it seemed Gresham wouldn't be able to attend promptly. It is a requirement of the T&C's that Mr B:

"must take all reasonable precautions to prevent accidents, loss or damage and keep the insured property in good condition"

I think some of B's conclusions are drawn from comparing photographs on street view from 2020 and then after the repairs had been carried out. Another street view from 2018 shows the roof in very similar condition. I think this shows whilst there is some evidence of wear and tear the roof was in a good enough state of repair to withstand normal weather for several years after. This, together with the newer neighbouring roof also being damaged, leads me to conclude that it's more likely than not that the primary cause of the damage was the storm rather than wear and tear.

So, I don't think that Gresham has treated Mr B fairly in declining his claim. I haven't seen anything to suggest that Gresham suspected the claim was fraudulent. It has sought to apply an exclusion in the policy T&C's, but I don't think this was reasonable in this case.

Putting things right

To put things right I think it's fair that Gresham should settle the claim by paying Mr B's repair costs. It should add interest at 8% per year simple from the date he paid these costs until the date of settlement.

My final decision

My final decision is that I uphold this complaint against Gresham Insurance Company Limited.

I direct Gresham Insurance Company Limited to settle Mr B's claim by paying him the cost of his repairs with the addition of interest at 8% per year simple from the date he paid these costs until the date of settlement.

If Gresham Insurance Company Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell how much it's taken off. It should also give a certificate showing this if Mr B asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 12 April 2022.

Nigel Bracken
Ombudsman