

The complaint

Mr R complains Great Lakes Insurance SE unfairly declined a claim for malicious damage against his Residential Landlord Insurance policy.

Mr R thinks the claim should be met.

What happened

Mr R reported a malicious damage claim to Great Lakes in 2021. He says the tenant vacated and left the property in a poor condition. He also says he reported the incident to the police.

Great Lakes requested Mr R pays an additional premium as they say he failed to disclose he hadn't carried out background checks on the tenant before signing the agreement. Mr R paid this, and the claim progressed.

Mr R provided Great Lakes with a repair invoice totalling approximately £16,000. Great Lakes say the policy limit for malicious damage is £5,000.

In any event, Great Lakes later declined the claim and referred to the policy terms. They say the photos of damage and information Mr R provided shows damage occurred due to wear and tear, and neglect by the tenant, rather than any malicious damage. Mr R didn't agree and complained.

Great Lakes responded to the complaint maintaining their position. They say Mr R had accidental damage cover which could be considered, but they didn't agree to pay the malicious damage claim. Mr R remained unhappy and approached our service.

An investigator here considered the complaint and recommended it be upheld. Whilst she didn't agree Mr R had demonstrated malicious damage occurred, she felt Great Lakes unfairly asked Mr R to pay an additional premium. So, she recommended they refund this amount.

Mr R didn't agree and asked for an ombudsman to decide, and the case was passed to me.

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.

Malicious damage claim decision

My starting point here is the damage. The photos Mr R provided show his property in a poor condition which is evident within several areas of the property. The photos show marks and chips to the door and walls, the poor condition of the kitchen and bathroom, and the flooring has lifted in parts and appears stained, amongst other things.

I can appreciate why Mr R strongly feels the cause of damage was malicious given the condition he found the property to be in. However, the damage I've highlighted above, I'd generally attribute to wear and tear, or possibly neglect. But neglect isn't the same as malicious damage and would be better dealt with between the parties involved. I say this because, for example, the marks on the walls and doors, and the condition of the kitchen, appear more likely to have occurred over time, as opposed to someone (in this case, the tenant) deliberately causing this damage to harm Mr R. The kitchen is evidently in a poor condition, but in my view, it appears to be due to neglect, and the tenant's failure to take lack of proper care as a landlord would reasonably expect, rather than malicious damage.

Great Lakes say Mr R accepted the tenant a few years prior to reporting the claim. And the selection of the tenant was based on recommendations he'd received at that time. Mr R hasn't provided any strong supporting evidence that demonstrates why the tenant would have wanted to cause malicious damage to his property to deliberately cause him harm.

I'm very sorry to disappoint Mr R as neither party disputes his property was left in a poor condition. I appreciate this would have been a frustrating and upsetting time for him. But I must decide whether I find Great Lakes acted unfairly when declining the claim for malicious damage under the policy. And for the reasons I've given above, I haven't been persuaded they did.

I note Mr R has accidental damage cover. From the information available, it doesn't appear he has pursued this policy benefit with Great Lakes. Should Mr R wish to raise a claim under this section of the policy, Great Lakes will need to consider this in line with the relevant policy terms. They should also consider whether it's reasonable to apply more than one policy excess given the extent of the damage, when the damage likely occurred, and the separate locations of where damage was found inside the property.

The additional premium

The policy schedule with the issue date of October 2020 asks about background checks carried out by Mr R on the tenant. Mr R answered, "*I disagree*" and "*No checks*" to the statements that ask whether checks (and if so, what checks) were carried out on the prospective tenants before the tenancy agreement was signed. So, it's unclear why Great Lakes requested Mr R pays an additional premium, as the questions appear to have been answered correctly.

It appears Great Lakes made an administrative error which gave the impression Mr R disclosed he had carried out background checks on the tenant, and therefore answered the questions regarding the same incorrectly. However, that wasn't the case, and therefore it wasn't fair for Great Lakes to require Mr R to pay an additional premium of £28.41. So, they must refund this amount to him.

Mr R also says Great Lakes caused unnecessary delays during the claim process, including erroneously requesting he pays an additional premium. He thinks Great Lakes should compensate him for his losses, such as the rent he lost out on during this time.

I've looked at the overall claim journey between the parties which started on or around 11 October 2021 when the claim was reported. I accept there were some avoidable delays, particularly as we know Great Lakes took time considering whether an additional premium should be paid in error, which somewhat slowed things down. But the claim decision was communicated to Mr R by email on 23 November 2021.

So, whilst I do appreciate things could have been handled better, I haven't seen anything to persuade me Mr R lost out as a result and, but for these short delays, he would have

received rent. My understanding is the property was vacant during the time the claim was running. I find the time between Mr R reporting the claim to receiving a decision on it overall to be reasonable.

I accept my decision will come as a disappointment to Mr R. But my decision ends what we – in attempting to resolve his dispute with Great Lakes – can do for him.

Putting things right

Great Lakes should not have required Mr R to pay an additional premium, so they must refund him £28.41 in full and final settlement of the complaint.

My final decision

My final decision is I uphold it. I now require Great Lakes Insurance SE to pay Mr R £28.41.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 18 May 2022.

Liam Hickey
Ombudsman