

The complaint

R, a limited company, complains Royal Sun Alliance Insurance Limited has unfairly handled its claim on its Properties Insurance policy. R is represented in this complaint by Mr W, one of its directors and owner of the property.

What happened

The background of this complaint is well known to both parties and has been detailed by our investigator previously. So, I'll summarise the key points I've focused on within my decision.

- In August 2020, Mr W's tenants contacted RSA to advise that there were wet carpets/flooring at the insured property.
- Mr W arranged a plumber to attend who confirmed there had been a small leak from a tap under the sink but said this was not sufficient to cause the level of damage present.
- Mr W was advised by RSA he needed to ascertain the cause of damage before liability could be accepted.
- Mr W used a damp specialist recommended by RSA. It determined there were two leaks one from the flat above – washing machine pipe leaked causing damage to ceilings and wall in lounge kitchen and bedroom. There was also a second leak in Mr W's flat from the washing machine causing damage underneath vinyl flooring in kitchen and carpet in bedroom.
- Shortly after the loss was reported, the tenants temporarily left the property due to health grounds and whilst the works were completed. So, R submitted a loss of rent claim.
- After property was dried out and a drying certificate had been issued. RSA's contractors attended the property in October 2020 to carry out internal repairs and they found the property was saturated.
- The damp specialist was asked to reattend to determine if there was a third leak or if repairs hadn't been completed properly. It said damp issue was due to the property not being ventilated.
- An ongoing dispute between the damp specialists and the contractor appointed to complete the repairs meant the property remained empty over the winter months and repairs were not completed. In April 2021 the repair contractor eventually agreed that the original leaks have possibly contributed to further condensation and damp issues.
- Mr W's tenants had intended to come back to the property but as things were taking so long, they couldn't stay in their temporary accommodation any longer, so they found alternative permanent accommodation.
- In April 2021 RSA appointed a further contractor to attend and assess the property. It said all damage was caused by penetrating damp and condensation issues and recommended the claim was declined.
- However, RSA still agreed to pay for damage to bathroom ceiling – £414.

- Mr W has said to get the property back to a lettable condition he paid around £2,000.
- When Mr W brought this complaint to our service, RSA hadn't issued a final response but told us it had agreed to pay for the damage to the bathroom - £414 and it had calculated the loss of rent from date on incident to date the tenants moved out – 27 days totaling £445.50.
- Our investigator initially didn't uphold the complaint. Mr W provided the damp specialist report which was shared with RSA. She then upheld the complaint, saying the damp specialist's initial report was more persuasive than the latter report that was conducted some eight months after the initial water leaks. She felt RSA should pay the claim including the mould damage and damage to the flooring and pay 8% per annum from the date of payment to the date of settlement subject to receipt of invoices. Our investigator asked RSA to reconsider the loss of rent as the tenants moved out due to health reasons. RSA didn't respond on this point.
- RSA didn't agree and reiterated information that the investigator had considered so it didn't change her mind. The complaint has been passed to me, an ombudsman, to make a final decision.

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 have considered the reports that have been made available to me. The damp specialist report that was conducted in early September 2020 shows it conducted thermal imaging to detect the leaks. The thermal image clearly shows a wet ceiling. The moisture equipment found high levels of moisture and humidity in the ceilings and walls in the lounge, kitchen, and bedroom. There was also mould on the walls and ceiling. It concluded the cold-water feed pipe to the washing machine in the flat above had been slowly leaking for some time causing the water damage. It also advised that added moisture was also contained in the kitchen vinyl and carpet in bedroom - this was due to a failed door seal on the washing machine.

I can see after the repair contractor told RSA the property wasn't dry the damp specialists were asked to revisit to establish why the property was still wet. It conducted a damp diagnostics survey. This concluded that all walls in all the rooms were in fact dry. The mould growth was reported to be an issue due to poor ventilation and said it appears to have been ongoing for some time, coupled with lack of heat in the property in colder months.

During an inspection, RSA spoke to the owner of the flat upstairs who said she had a small leak behind her washing machine which has since been repaired. The leak behind the washing machine was "very minor". She also said she had a leak in her bathroom from the WC that was fixed at the same time but that hadn't caused any damage.

There were avoidable delays due to the conflicting opinions if the property was dry and the cause of the damp/mould issues. It took until January 2021 for RSA to authorise that both the damp specialist and the repair contractor corroborate to find a resolution and report back.

The repair contractor did eventually agree that the damp conditions could be a result from the escapes of water and that the property wasn't lived in at the time. However, by this stage RSA instructed another surveyor to validate the claim.

Their report conducted in April 2021 found that there was no damage under where the upstairs flat had a water leak. They concluded that the damage to the ceilings and walls in

the property was the result of damp and condensation and recommended the claim is declined. I'm not persuaded by this report because I don't think sending a surveyor out to the property eight months after the loss is beneficial. A lot can change within that time. I note it also declined all damage due to penetrating damp, when two escape of water leaks had previously been identified.

I'm more persuaded by the first report as this was completed within a couple of weeks of the loss being reported and gives more indication of the damage caused. I note there is no mention within this report that there were ventilation problems or penetrating damp.

The first issues we hear regarding damp is after damp specialists second report, over two months after the damage had occurred. And based on the available evidence, I'm not satisfied the insurer has proved the exclusion as required to be able to reasonably rely on it. Having looked at the timeline of events I'm persuaded that the condensation/damp issue has more likely occurred as a result of the escape of water claims. RSA has indicated throughout the claim, the ceiling was a minor leak, but the leak detection report confirms otherwise. I've taken into consideration that the property was empty, so it wasn't being heated and ventilated and from what I've seen wet carpet and flooring were still in situ that would've added to the problem.

Mr W has now completed the repairs I therefore instruct RSA to pay the claim including the mould damage on receipt of invoices.

Whilst it was identified there was a leak also from the faulty seal on the washing machine in the flat that affected the vinyl flooring in the kitchen and bedroom carpet, it doesn't appear RSA have offered any settlement for this. It's unclear why. I will therefore direct it to pay to replace the flooring.

The tenants of the affected property moved out due to the issue temporally. Their intention was to return to the property once it had been repaired. However, given the length of time the claim took, they found a new residence resulting in R losing rent. RSA requested a copy of the tenancy agreement and an email from the tenant confirming the reason for moving out. RSA have already agreed to pay loss of rent for 27 days when it responded to the complaint at our service but I'm satisfied that it should be extended to 115 days when the rental agreement was formally ended subject to the relevant documents being provided and the remaining terms and conditions of the policy.

Putting things right

I instruct Royal Sun Alliance Insurance Limited to do the following:

- Pay the claim including the mould damage and damage to the flooring and pay 8% per annum from the date of payment to the date of settlement subject to receipt of invoices.
- Pay the loss of rent for 115 days subject to the relevant documents being provided and remaining terms and conditions of the policy.

My final decision

For the reasons given above I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 13 July 2022.

Angela Casey
Ombudsman