

The complaint

Mr R complains that Nelson Insurance Company Limited declined a claim he made on his commercial vehicle insurance policy after his car was stolen.

Reference to Nelson includes its agents.

What happened

Mr R holds a commercial vehicle insurance policy for his taxi with Nelson. One day, when he went to pick up a client, his taxi was stolen.

Nelson declined his claim. It said Mr R hadn't taken all reasonable precautions to safeguard his vehicle from loss. It said this because it said the key report indicated the engine was still running, and the doors and windows were left open.

Mr R wasn't happy with this and complained. He said the engine wasn't running, and the doors and windows weren't open, but the boot was. He said he was standing right at the back of the taxi by the boot when the thief drove away in his car.

Nelson didn't change its stance, so, Mr R brought his complaint to us.

One of our investigators recommended it be upheld. They didn't think Nelson had shown Mr R had failed to take reasonable care. So, they recommended it reassess his claim in line with the remaining terms and conditions of the policy.

Nelson disagreed and asked for an ombudsman's 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.

Having done so I'm upholding this complaint. I'll explain why.

- Mr R's policy with Nelson contains a term requiring him to "*...take all reasonable precautions to safeguard **your** vehicle from loss or damage...*". It is this term Nelson have used to decline his claim, and the complaint brought to us is based on its decline of the claim by relying on said term.
- In order to rely on this term, Nelson need to show Mr R was aware of the risk, and then failed to take reasonable steps to avoid it. And I'm not satisfied it's done that.
- It's not conclusive whether the engine was on or off from the key report. It says "*A relay device could have been used to activate the ignition, using the method described above; or if the vehicle engine was running, an individual could simply get in the vehicle and drive it away...*"

- Nor is it conclusive what doors remained open. But the key report indicates it is more likely than not that the window and door was left open, not the boot as Mr R has described as that was the last Bluetooth update from the key.
- However, it is accepted by all parties that Mr R was standing right at the back of his car at the point it was stolen. So, close that I think it could be reasonably said he was in attendance of the vehicle.
- So, on that basis I don't think it's fair Nelson rely on the clause stated above as it's not shown Mr R failed to take reasonable steps to safeguard the vehicle from damage. It's not shown on the balance of probabilities that the engine was left on, only that it could have been. And in any case, I consider being so close to the vehicle that it can be considered attended, is a reasonable measure to protect against theft. Although unfortunately, in this instance, it didn't work, and the car was still stolen.
- Nelson should reassess the claim based on the remaining terms and not decline this claim by relying on the clause stated above.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint. To put things right I require Nelson Insurance Company Ltd to:

- Reassess Mr R's claim in line with the remaining terms and conditions of the policy

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 August 2022.

Joe Thornley
Ombudsman