

The complaint

Mrs E and Mr S complain that Ageas Insurance Limited (Ageas) declined their claim for malicious damage to a door, under their landlords building insurance policy.

Mr S is the lead complainant. I will refer to him in my decision for ease of reading.

What happened

In July 2021 Mr S's tenant contacted him to say damage had been caused to the property's front door. A glass panel had been smashed and the door had been damaged so that the tenant couldn't open it.

Mr S claimed to Ageas under his policy. It sent a contractor to survey the damage and to make the door safe, which meant boarding it up. Its contractor produced a quote for replacing the damaged door, but it says the claim should be rejected as there was existing damage.

Mr S didn't think this was fair and complained to Ageas, but it didn't change its view. In its final response it says that whilst there was malicious damage present, wear and tear was the underlying cause. It says there was beading missing, the old timber surrounds were rotten, and the door was old and had been boarded a few times.

Ageas says as the door was already in a poor condition due to wear and tear, Mr S's claim was declined as it was considered more susceptible to damage. It says it isn't satisfied the claim was the result of an insured event under its policy terms.

Mr S referred his complaint to our service. Our investigator upheld his complaint. He thought the malicious damage had meant the door couldn't function as it did previously. He didn't think this was down to wear and tear and Ageas should cover the claim ensuring an effective and lasting repair is carried out.

Ageas didn't agree. It says a lot of the damage is pre-existing and maintained its view that the claim should be declined. It asked for an ombudsman to consider this complaint.

It has been passed 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.

It's for the customer to prove they have suffered an insured loss under their policy. If they can do so then, generally speaking, the insurer must accept the claim unless it can reasonably rely on a policy exclusion not to.

In this case Mr S claims malicious damage was caused to his property. This is something his policy covers. I note Ageas accepts this to be the case. However, it has relied on the exclusion for damage caused by wear and tear, in order to decline the claim.

I have thought about whether Ageas treated Mr S fairly when declining his claim for this reason.

Ageas's records show Mr S explained he had been contacted by his tenant to say the front door wouldn't open. When he visited the property, he found that the glass had also been smashed.

In his complaint Mr S explains a bracket had to be moved from inside of the door frame to open it, because the door had been bent inwards. I have seen the photos Mr S supplied showing the door and the damage. This includes an image of a new bracket that was installed. I can see from the images that there was existing damage to the lower glass panel on the left-hand door. Ageas has supplied photos of the doorway taken at an earlier date – this shows the pre-existing damage to the glass on the left-hand door as well as pre-existing damage to the glass on the right-hand door.

Mr S doesn't dispute this damage was pre-existing. He says he wasn't looking for pre-existing damage to be covered under his policy. But the door has been bent as a result of the malicious damage and this should be covered.

It's clear from the photos that there was pre-existing damage to the glass panels in both doors. Ageas's contractor highlights old timber surrounds that are rotten and, "*may cause damage when removing*". Its report says, "*old door which has been boarded a few times and messed around with. We cannot do anything with this job other than to repudiate it. There is beading missing*".

In response to this report, Mr S says the door trims aren't missing they were stored inside the property by the door. He points to where this is shown in his photos. He maintains that the door and the frame are bent, and the door now has to be pulled hard to close it. He says this is the result of the malicious damage.

I accept there was pre-existing damage. But I don't think the damage caused to the door and frame was a result of wear and tear. Prior to the claim the door functioned – albeit there were boarded up and damaged sections of glass. After the incident the door no longer functions as it supposed to. In order to indemnify Mr S for his loss, we expect that Ageas should place him back in the position he was in, immediately before the damage occurred.

Ageas's contractor has shown that the work required to repair the damaged door and frame will cost around £5,000. The contractor Mr S approached provided a quote for a similar price. We expect an insurer when indemnifying its customer for an insured loss, to carry out a repair that is effective and lasting. I understand that in this case it's likely some pre-existing damage will be included in the repairs. As a result of replacing the frame and doors. But from what I have seen, I don't think this can be avoided to achieve an effective and lasting repair.

I think Mr S has shown he has suffered an insured loss. It's Ageas responsibility to indemnify his loss under his policy. I'm not persuaded that the damage caused is the result of wear and tear. If the door had been new, I don't think this will have prevented the damage from occurring. So, I don't think it's fair for Ageas to rely on this exclusion to decline Mr S's claim.

Having considered all of this I don't think Ageas treated Mr S fairly in declining his claim for the reason it did. It should now cover his claim for malicious damage ensuring an effective and lasting repair is carried out.

My final decision

My final decision is that I uphold this complaint. Ageas Insurance Limited should:

- cover Mrs E and Mr S's claim, without relying on the wear and tear exclusion, to carry out an effective and lasting repair.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr S to accept or reject my decision before 17 August 2022.

Mike Waldron
Ombudsman