

## **The complaint**

Mrs N complains Ageas Insurance Limited has unfairly settled a claim she's made on her buildings insurance policy following an escape of water.

## **What happened**

The background to this complaint is well known to the parties so I've provided a summary here.

- Mrs N owns a property rented out to tenants, insured by a buildings insurance policy underwritten by Ageas. She reported an escape of water at the property to Ageas in October 2020. A loss adjuster was appointed to manage the claim.
- In November 2020, the tenant decided to leave the property which Mrs N said was due to the damage.
- Remedial works were agreed. Mrs N thought this work took too long. She made several complaints about issues related to it and Ageas' handling of the claim, some of which have been dealt with under another complaint considered by this Service.
- Mrs N says she wasn't able to re-let the property until November 2021 as Ageas took longer than it should have done to complete the work. She says she's lost out on rent of approximately £5,600 because of this and wants Ageas to cover this together with the council tax she still had to pay over the time the property was un-let.
- Mrs N complained to Ageas but it declined to cover the rent as it didn't consider the property to have been uninhabitable and that was a requirement for the policy cover to engage. It did though offer £50 in recognition of its service failings.
- Mrs N raised a complaint with this Service but our Investigator didn't think Ageas should cover all the rent Mrs N says she'd lost. He thought the property would have been habitable and the tenant had decided to move out before the reinstatement works commenced. But he thought Ageas should pay one month's rent in recognition of the avoidable delays in its complaint handling subject to supporting evidence.
- Ageas accepted this recommendation but Mrs N didn't and asked an Ombudsman to reach a 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.

- When making a claim on a policy, the onus is on the consumer to show the claim is covered under the policy terms. The terms of an insurance policy set out what the parties can expect from it. I'm unlikely to tell an insurer to pay a claim if it's not covered under the policy terms. I'll be considering this complaint in light of this

together with what I consider to be fair and reasonable.

- Ageas has highlighted the policy wording relating to loss of rent cover, which I've detailed below.

*“What is covered:*

*Loss of Rent...if the Property is damaged by any cause under Section 1A and, as a result, it cannot be lived in, We will pay:*

*(a) For Your loss of rent; and*

*(b) Any reasonable accommodation expenses until the Property is ready to be lived in again”*

- It's accepted the property was damaged by a cause under Section 1A so I don't have to make a decision on this. The key thing for me to consider is whether the property was uninhabitable – distinct from being more difficult to rent out - as a result of the damage caused.
- The damage was to the dining room and a bedroom where the leaking radiator was situated. The loss adjuster said the extent of the damage didn't amount to the property being uninhabitable. It referred the issue to its technical team for a second opinion and they agreed. Mrs N didn't agree with this as there were two rooms in the property that couldn't be used.
- The policy doesn't define what leads to a property being uninhabitable, broadly though, this Service would say this applies if there's no kitchen, bathroom or toilet facilities. I've seen nothing which persuades me this was the case with Mrs N's property after the incident happened or at the time the tenant decided to leave the property.
- I acknowledge the photos supplied by Mrs N after the property was dried out and strip-out works were completed, early in 2021, do show amongst other things, the front room with bare, unplastered walls and no carpet and electrical cabling hanging from the ceiling. While I wouldn't disagree this would be unsightly, I'm not satisfied this would amount to it being uninhabitable. And I have to keep in mind here in any case, this was some months after the tenant had already decided to leave.
- Mrs N says she wouldn't have been able to rent out the property again given the damage that had occurred following the escape of water. While it *may* have been more difficult to rent out, I've not been given anything which shows Mrs N attempted to rent out the property again after her previous tenant left but was unable to. But even if the property *had* been more difficult to rent out, the policy specifies the property must be uninhabitable, and for the reasons given I'm not satisfied it was.
- Overall, I'm not persuaded the property has been shown to have been uninhabitable at the time the tenant decided to leave the property so it follows I don't think it would be fair or reasonable to direct Ageas to cover the rent Mrs N says she lost. I'm also not going to be directing Ageas to cover the council tax as this isn't covered under the policy, and I'm not persuaded it would be fair or reasonable to direct Ageas to cover this, especially as this seemingly would have been payable in any event.
- Ageas accepts its claim handling could have been better and the works completed quicker and I agree. It's already paid £50 compensation under this complaint but I think it needs to do more. Ageas has now agreed to pay Mrs N the equivalent of a month's lost rent in compensation to recognise its mistakes. Having thought about

this carefully and everything I've said above, I'm satisfied this is a fair and reasonable sum in the circumstances.

### **My final decision**

My final decision is that I uphold this complaint and direct Ageas Insurance Limited to pay Mrs N the equivalent of one month's rent subject to the provision of supporting documentation showing the previous tenancy agreement and amount received under the agreement.

Ageas Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mrs N accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 28 April 2023.

Paul Phillips  
**Ombudsman**