

The complaint

Mr U is unhappy that Royal & Sun Alliance Limited (“RSA”) has applied a policy limit when settling his contents insurance claim.

What happened

The circumstances of this complaint aren’t in dispute, so I’ll summarise the main points:

- A number of graphics cards were stolen from Mr U’s garage, so he got in touch with RSA to make a claim for them.
- RSA said there was a policy limit of £2,500 for theft from outbuildings. As it considered the garage to be an outbuilding, it said it would only pay up to the limit.
- After much discussion, RSA accepted the garage wasn’t an outbuilding as it was attached to the main house. It agreed to consider the claim further by appointing a loss adjuster to check whether Mr U was underinsured.
- The loss adjuster thought Mr U was adequately insured and offered to settle the claim for £26,000, which Mr U accepted. But shortly after, the loss adjuster said there was a policy limit of £4,000 for business equipment. As it considered the graphics cards were being used by Mr U as part of a business, it only paid up to the limit.
- Mr U didn’t think this was fair. He said he was a computer enthusiast who used the graphic cards for his hobbies of gaming and crypto mining. Separately, he had considered setting up a website to explain crypto mining, offer tips and give advice to other enthusiasts who may wish to get involved in his hobby. At the same time, he registered a business name to accompany the website. But he didn’t go ahead with the website and the business never traded – it existed in name only.
- RSA said Mr U’s intention had been to run a business venture from his home with the aim of generating income in addition to this full time employment. So it thought the limit for business equipment was fairly applied.
- Our investigator thought the complaint should be upheld. She wasn’t satisfied RSA had shown Mr U had used the graphics cards as part of a business. She asked RSA to settle the claim without relying on the business equipment policy limit, to pay interest on the settlement, and to pay £250 compensation.
- Mr U accepted our investigator’s findings. RSA didn’t. In summary, it said:
 - If the graphics cards were intended to be used as part of a hobby of crypto mining, why did Mr U setup a business?
 - The purpose of crypto mining is to gain money. It’s not a hobby.
 - At the time of the loss, Mr U was asleep and the cards were being used for crypto mining. So the cards were being used to gain money as part of a business, and not as part of a hobby.

- The business was incorporated prior to the loss. Before it completed its first year, the graphics cards were stolen. No accounts were submitted to Companies House and RSA presumes this was because Mr U was unable to continue crypto mining without the cards.
- The cards Mr U had were top of the range at the time of the loss. If he had bought them for gaming, he would only have needed one. This shows they were bought primarily for crypto mining – and that was a business.

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.

Claim settlement

The policy covers loss of contents caused by theft. RSA has accepted the loss was caused this way. I also understand it accepts Mr U owned the items claimed for and agrees with his valuation of them, so none of this is in dispute.

Whilst RSA previously sought to apply a policy limit for theft from outbuildings, it has since accepted that shouldn't apply. It's now relying solely on the policy limit for 'Business equipment', which is set at £4,000 in the policy schedule. As RSA is seeking to apply the limit, the onus is on RSA to show it would be fair and reasonable to do so.

The phrase 'business equipment' is defined in the policy to mean: "Computer, telecoms and office equipment, office furniture and stationery".

I understand the purpose of a graphics card is broadly to provide a computer with more power to rapidly process information. This is usually to enhance the visual display but can also provide greater processing power across the other functions of a computer. So I think it would be fair to say a graphics card could be considered computer equipment.

Taken literally, the phrase 'computer equipment' could include any computer or computer accessory. These kinds of items could be found in the home and be used solely for personal reasons. I'm not satisfied it would be fair to consider items used in this way to amount to 'business equipment'. In my view, these sorts of items would only fairly be considered 'business equipment' if primarily used in connection with a business.

Much of RSA's response has focused on whether crypto mining could be considered a hobby. I understand its argument to be that if the cards weren't used in connection with a hobby, they must have been used in connection with a business. But I'm not persuaded that's the case. The cards are broadly used to give computer equipment greater processing power. And computers can be used for a number of activities, which aren't limited to hobbies and business use only. Mr U says he used some of the cards for gaming as well as crypto mining. I think this shows that the cards, and the computers they're used with, can have mixed purposes.

Overall I think the key question in this case is whether Mr U primarily used the graphics cards in connection with a business.

RSA has suggested that any activity which can generate an income amounts to running a business. And because crypto mining can generate an income, in RSA's view, Mr U was using the cards in connection with a business when crypto mining.

However, Mr U has pointed out that some activities, such as investing in an ISA or stocks and shares can generate an income by using a computer and graphics cards – but they wouldn't necessarily mean the user was running a business.

I agree with Mr U. Individuals can generate a significant income through these kinds of investments without being considered to run a business. However, it's also possible for professional investors to generate an income in this way as part of running a business.

So I'm not persuaded the most relevant point is whether Mr U could have generated an income by using the graphics cards. It's whether he was using them to run a business.

RSA has pointed out that Mr U setup a company related to crypto mining. It suspects his intention was to generate an income from crypto mining, using the cards, as part of a business venture run from his garage.

Mr U has explained why this wasn't the case and has provided compelling evidence to support his position. I'm satisfied the company was initially setup to give advice through the website only – not to crypto mine – but ultimately neither the website nor the company was pursued by Mr U and his company existed in name only thereafter.

That means at the time of the loss, I'm not persuaded Mr U was running a business of any kind. It follows that his use of the graphics cards couldn't have been in connection with a business. Whilst the way he was using the cards may have been able to generate an income for him, I'm not satisfied that automatically amounts to running a business.

Taking all of this into account, I'm not satisfied it would be fair in the particular circumstances of this complaint to consider Mr U's graphics cards were 'business equipment'. And so I'm not satisfied it would be fair for RSA to rely on the business equipment policy limit.

To put things right, RSA should now settle the claim without relying on the business equipment policy limit. It can rely on the remaining terms of the policy though, such as applying an excess.

Claim handling

Mr U first got in touch with RSA in May 2021. Within a few days it had gathered basic information about the loss, including Mr U providing evidence of his ownership and the value of the stolen cards. RSA then sought to limit the claim to £2,500.

The policy term I understand RSA relied on says: "the most we'll pay for theft from outbuildings and from detached garages is the theft from outbuildings limit shown on your policy schedule". That document shows this limit is £2,500. The word 'outbuildings' isn't defined in the policy. I think an ordinary understanding and everyday use of the word would be structures within the property boundary but not part of or attached to the main house – for example, a garden shed. That's in keeping with the term applying to detached garages.

Mr U's garage is attached to and is part of his main house. So I don't think it could fairly be described as an 'outbuilding'. However, RSA relied on part of the definition for the word 'home', which, amongst other things, includes 'outbuildings, including attached and detached garages'. It said this showed the definition of 'outbuildings' included attached garages.

RSA made a mistake as the policy was very clearly *not* defining outbuilding here – it was listing all the things that made up the definition of 'home'. Despite Mr U pointing this out, it took nearly two months for RSA to accept the limit didn't apply.

RSA then agreed to appoint a loss adjuster to look into the claim further, including a concern about underinsurance. The loss adjuster visited soon after and said the sum insured was more than adequate for the contents. The loss adjuster then went on to offer to settle the claim at £26,000, less the excess, which Mr U accepted.

However, the loss adjuster then became concerned that the cards may be business equipment – and this may mean the business equipment limit would apply. After some discussion internally at RSA, the limit was applied. As discussed above, most of the focus was on what Mr U *could* have used the cards for and how he *could* have made a profit from them – rather than finding out from him what the actual position was, and whether it could fairly be interpreted that the cards were ‘business equipment’.

It took from mid August to mid December for RSA to consider things further – at which point it asked to interview Mr U. Whilst the purpose of this was to find out the information I noted above, which is helpful, it came seven months after the claim was made – and four months after the loss adjuster had offered to accept the claim in full. By mid February, RSA set out its final position to Mr U – six months after he had complained.

Looking back over this claim journey, I think Mr U was treated poorly by RSA and it caused him avoidable distress and inconvenience. I bear in mind that crypto mining and the equipment involved in it is still relatively new and novel in the home insurance industry, so it was reasonable for RSA to take longer than usual to consider the impact on policy cover.

However, I would have expected it to employ that level of caution *prior* to offering to settle the claim, rather than afterwards. Retracting the offer and carrying out significant further investigation gave Mr U a loss of expectation and added distress. And this followed two instances where RSA sought to reduce the claim and then accepted it would be wrong to do so – first by applying the outbuildings limit and then by exploring underinsurance.

I agree with our investigator that the fair remedy to this is £250 compensation for the avoidable distress and inconvenience caused and interest to recognise that Mr U has been without the claim settlement money unfairly for a period of time. RSA originally offered to settle the claim in full on 11 August 2021. Had it done so fairly, it would have offered the full amount at this time, so I consider that’s when interest should be calculated from.

My final decision

I uphold this complaint. I require Royal & Sun Alliance Limited to:

- Settle the claim without relying on the business equipment policy limit.
- Add interest to the settlement, at 8% simple per year, from 11 August 2021 to the date of settlement*.
- Pay £250 compensation.

*If RSA considers that it’s required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr U how much it’s taken off. It should also give Mr U a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr U to accept or reject my decision before 22 March 2023.

James Neville
Ombudsman