

The complaint

Mr S complains that Haven Insurance Company Limited declined to pay his claim on his motor insurance policy after his car was stolen. He wants Haven to pay for the loss of his car.

What happened

Mr S took out a motor insurance policy with Haven through an online comparison site for a car he was buying from a friend. They had an agreement that the V5 registration document would be put in Mr S's name when he had paid all the instalments. When the car was stolen, Mr S tried to make a claim on his policy. But Haven declined to pay it as it said Mr S wasn't the car's owner and registered keeper and had no insurable interest in it.

Haven also said Mr S had answered the question it asked about the car's ownership incorrectly. And it considered this to be a reckless qualifying misrepresentation, which entitled it to cancel the policy, decline his claim and retain his premiums.

Mr S brought his complaint to us, and our Investigator thought it should be upheld. He thought the question asked by Haven on the comparison site Mr S used about the car's ownership wasn't clear. He thought Mr S had answered this to the best of his ability. And so he thought it was unfair and unreasonable for Haven to decline his claim. He thought it should consider Mr S's claim and pay him £100 compensation for the trouble and upset caused.

Haven doesn't agree with the Investigator and has asked for an Ombudsman's decision. It said the risk was unacceptable to it. It was prepared to refund Mr S's premiums, but it declined to consider his claim.

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.

Haven declined Mr S's claim because it said he had misrepresented who owned the car he was insuring. The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Haven thinks Mr S failed to take reasonable care not to make a misrepresentation when he said he was the car's owner and registered keeper. But the V5 registration document was in

his friend's name as he hadn't completed paying the instalments to buy the car from him in keeping with their written agreement

I've looked at the question Haven asked Mr S on the comparison site he used:

"Are you the owner and registered keeper of the car (or will you be)?"

I think this question is unclear as it is open to interpretation. The guidance notes don't help as they don't explain what is meant by "will you be". Mr S answered "Yes". And I think Mr S answered the question to the best of his ability as he was in the process of buying his car and had paid a large amount towards the purchase.

I'm satisfied that, in Mr S's particular circumstances, he met the requirement of "will you be" the car's owner and registered keeper. So I think he took reasonable care to answer the question and I'm satisfied that Mr S didn't make a misrepresentation. And therefore I think the actions taken by Haven are unfair and not in keeping with CIDRA.

As CIDRA reflects our long-established approach to misrepresentation cases, I think not allowing Haven to rely on it to cancel Mr S's policy and decline his claim produces the fair and reasonable outcome in this complaint.

Haven also said Mr S didn't have an insurable interest in the car as the V5 wasn't in his name. But Mr S has provided evidence of the agreement he had with his friend and the amounts he has paid towards the car's cost. I can see that he had paid for over half the car's cost. So I think it was unfair and unreasonable for Haven to say that Mr S didn't have an insurable interest in the car.

Haven's decision to repudiate Mr S's claim has caused him trouble and upset. Our Investigator recommended that Haven should pay him £100 compensation for this. I think that's fair and reasonable as it's in keeping with our published guidance.

Putting things right

I require Haven Insurance Company Limited to do the following:

1. Reconsider Mr S's claim in keeping with the remaining terms and conditions of the policy.
2. Pay Mr S £100 compensation for the distress and inconvenience caused by it rejecting the claim.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint. I require Haven Insurance Company Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 April 2023.

Phillip Berechree
Ombudsman