

The complaint

Mr M has complained about Bastion Insurance Company Limited. He isn't happy that it turned down a claim under his mobile phone insurance policy.

For ease of reading any reference to Bastion includes its agents.

What happened

Mr M made a claim under his mobile phone insurance policy after he lost his phone. When Bastion looked into the claim it turned it down. It said Mr M was in a public house at the time the phone was lost or stolen. And it believed he was under the influence of alcohol, so it declined the claim. This was because there was an exclusion under the policy meaning that there was no cover in place for accidental damage, loss, or theft while under the influence of alcohol. As Mr M wasn't happy about this he complained to Bastion and then this Service.

Our investigator looked into things for Mr M and asked Bastion for information and details around the decline of Mr M's claim. And as it didn't provide all of the relevant information she decided the case on the information available and upheld the complaint. She didn't think Bastion had sufficient evidence to say that Mr M was under the influence of alcohol at the time of loss. So, she thought Bastion should pay the claim and £100 compensation for the clear stress and inconvenience all this had caused him.

As Bastion didn't respond the matter has been passed to me for review.

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 think the complaint should be upheld. It is a shame that Bastion's agent hasn't provided the relevant information requested or said whether it does or doesn't agree with the investigator's position or not. So, I've had to finalise my decision on the evidence available.

Bastion has declined the claim as it believes Mr M was under the influence of alcohol. The clause says it won't pay a claim when '*Accidental Damage, Loss or Theft while You were under the influence of alcohol and/or drug*',

However, I haven't been provided with any detail or evidence to support this position. Just because Mr M was in a public house doesn't mean he was drinking or under the influence of alcohol. Mr M has explained that he wasn't drinking at the time. And without any evidence to the contrary I can't say Bastion has acted fairly here.

As such, I think the fair and reasonable thing to do is for Bastion to settle the claim. If Mr M has already replaced the phone, which would be understandable given the months of delay, it should pay him the cash equivalent of the value of his phone. And it should pay £100 compensation for the stress and inconvenience caused by the delay in settling the claim.

My final decision

It follows, for the reasons given above, that I uphold this complaint. I require Bastion Insurance Company Limited to settle the claim as outlined above and to pay £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 July 2023.

Colin Keegan
Ombudsman