

## **The complaint**

Mr J is complaining on behalf of L – a limited company – that Royal & Sun Alliance Insurance Limited (RSA) declined a claim L made on its commercial property insurance policy for damage to a chimney and skylight.

## **What happened**

In December 2021 L took out a insurance policy to insure a commercial building it owned. The policy was taken out through a broker. In March 2022 L's broker contacted RSA on L's behalf to report that L's property had suffered damage arising from a storm. It said that the skylight and chimney were damaged. The broker also said that the chimney was unsafe so needed to be taken down urgently.

In May 2022 RSA contacted Mr J to advise that it wanted to appoint a surveyor to assess the damage. Mr J was unhappy it wanted to do so, so late into the claim and he highlighted that the chimney had already been removed.

RSA later wrote to Mr J to advise that it was declining the claim because it considered the damage to be pre-existing and not as a result of the storm. It said, in absence of photos of the damage, it had reviewed online street view photos of the building which it said showed that there was pre-existing damage to both the chimney and the skylight. Mr J didn't think this was fair and highlighted that RSA had not properly inspected the property. So he referred L's complaint to this Service.

Our investigator didn't uphold this complaint. She said that RSA had actually declined the claim because it said there wasn't evidence of what had caused the damage as the chimney had been removed before an inspection could take place. Mr J provided a statement from his contractor which he said showed that there was damage and that it was caused by the storm. He also said it was unfair that it was he who was being required to provide all this information as he thought the insurer should have done so. He said his broker told him he could remove the chimney and also said that the insurer only did a brief inspection.

The investigator referred the report to RSA who said it didn't change the outcome. The investigator still didn't think RSA's decision was unfair. So Mr J asked for L's complaint to be reviewed by an ombudsman.

## **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.

I've decided to not uphold this complaint and I'll now explain why.

Mr J is saying L's property suffered damage arising from a storm – namely to the chimney and skylight.

The terms of the insurance policy covers L for loss or damage arising from a storm. However, the terms of the policy also sets out that it won't cover loss or damage that happens gradually – i.e. it's down to wear and tear. RSA believes the damage to the skylight was pre-existing. And it said that L hadn't shown that the damage to the chimney was caused by the storm.

In thinking about this, I've asked myself three questions:

1. Were there storm conditions as defined under the terms of the insurance policy?
2. Is the damage claimed for consistent with damage a storm typically causes?
3. Were the storm conditions the main cause of the damage?

There is no dispute that there was a storm at the time as Mr J says the damage occurred during a period of a named storm, with wind speeds in excess of 80 mph at the time.

However, I should also set out that it's firstly L's responsibility, as the policyholder, to show that any loss or damage was caused by an insured event. So L needed to show that the chimney and skylight was damaged by the storm.

I note Mr J is unhappy that RSA didn't do anything with the claim for over two months. But the claim was reported to RSA by L's broker on 2 March 2022. RSA called the broker back the same day and asked that L provide photographs and quotes for the repair.

However, these weren't provided until 3 May 2022. 11 days later RSA contacted Mr J to say it wanted to arrange for a surveyor to inspect the property. So I can't reasonably say RSA has caused any delays here as it was entitled to await the photographs before proceeding with the claim.

That said, I'm also conscious that, when the broker notified RSA of the claim, it advised that the chimney needed to be taken down urgently and that L was going to do so. I note Mr J says the broker told him that he could remove the chimney. But I haven't seen anything to show that RSA authorised that. If Mr J thinks the broker gave him incorrect advice, he'll need to raise that with the broker directly. However, it's clear that RSA asked for photographs of the damage. So Mr J should have taken these *before* the chimney was taken down and he hasn't provided this.

I've seen some photographs of the skylight and the chimney from before the event. The photographs of the skylight are from an online street view and they show it to have pre-existing damage. Mr J has queried when these were taken as he has had a number of repairs carried out to the skylight in the past. But they are the only photos provided of either the damage to the skylight or its condition before the storm. And, as I said, the broker was asked to obtain photos of the damage, but these weren't provided. So, I can't say it was unreasonable for RSA to rely on the photos it has.

Ultimately, the issue for me to decide is whether RSA acted unfairly in declining the claim based on the evidence it has. I don't think it's unreasonable to highlight that both the chimney and skylight are designed to cope with strong and high winds. I recognise that the winds on the day were extreme, but I still think the chimney and skylight should have sustained them if they were in good condition. Ultimately I don't think it was unreasonable for RSA to say that it thinks it's most likely there were pre-existing issues with the chimney and skylight and the storm has merely highlighted these issues.

I recognise that the damage Mr J says has occurred is consistent with damage that high winds can cause. But, for the reasons I've set out above, I don't think I can reasonably say that it was unfair for RSA to say that the underlying reason for the damage was pre-existing

and gradual damage. And the policy specifically excludes loss or damage arising in these circumstances. So, it follows that I don't think it was unfair for RSA to decline the claim.

### **My final decision**

For the reasons I've set out above, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask L to accept or reject my decision before 20 February 2024.

Guy Mitchell

**Ombudsman**