

The complaint

Mr S complains Astrenska Insurance Limited's engineer caused avoidable damage to his bathroom floor when attending to an escape of water at his property.

What happened

The circumstances of this complaint are well known to both parties, so I've summarised what's happened.

- Mr S made a claim on his home emergency policy – which is underwritten by Astrenska – following an escape of water at his tenanted property. Astrenska accepted the claim and sent an engineer. The engineer located the source of the leak and completed a repair.
- Mr S subsequently complained saying a bathroom tile – which wasn't in the vicinity of the repair – had been damaged by the engineer. He provided photographs which he considered showed the tile had been damaged whilst the engineer was in attendance.
- Mr S was also unhappy the engineer didn't confirm the repairs were complete until three days after the repair had taken place. He said this meant his tenants had unnecessarily been without access to the bathroom.
- In its final response Astrenska said it didn't think the contractor could be identified as having caused the damage.
- Unhappy, Mr S brought a complaint to this Service. An Investigator considered it and said Astrenska should cover the cost of repairing the damaged tile as she was persuaded it was most likely caused by the engineer. She said Astrenska should pay £100 compensation because it had acted unfairly by refusing to cover the costs of replacing the tile, and because Mr S had to spend time sorting things out due to the miscommunication with the contractor.
- Mr S accepted the Investigator's findings, but Astrenska disagreed. It said it wasn't reasonable to expect it to cover the cost of replacing the entire floor if a matching tile couldn't be sourced. And that it was unfair for it to cover a potentially large bill when the contractor possibly caused the damage unknowingly.
- Mr S subsequently informed this Service that a matching floor tile couldn't be sourced as it was no longer available. And so, the Investigator explained to Astrenska that it would need to replace the entire floor.
- Astrenska remained unhappy and so, the complaint has been passed to me for an Ombudsman's 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.

- It's not in dispute the damage complained about isn't connected to the trace, access and repair the engineer completed when visiting Mr S' property to stop a leak. Rather, it's about damage to a floor tile which wasn't proximate to the area of repair.
- The issues to be decided are whether the damage to the floor tile was *most likely* caused by the engineer. And if it was, whether it's reasonable to direct Astrenska to put right the damage.
- Turning to the first issue – Mr S has provided photographs which show the bathroom floor *prior* to the engineer attending and then after the repair had been carried out. Notably, the *after* photograph shows a floor tile exhibiting a crack which *wasn't* apparent in the before photographs.
- This – coupled with Mr S's testimony that his tenants weren't using the bathroom following the engineer's visit because they were under the impression it was out of use satisfies me the damage was more likely than not caused by the engineer.
- I appreciate Astrenska has said it's unfair to hold it responsible when the damage was possibly caused unknowingly by the engineer. But whether the engineer was aware or not has no bearing on whether Astrenska is responsible for putting it right.
- Astrenska has said the policy exclusion – "*damage incurred in gaining necessary access or the cost of effecting permanent repairs once the emergency has been resolved*" means it's not responsible for putting right the damaged floor tile. But I don't agree because the damage to the tile *wasn't* incurred whilst gaining access to the leak or repairing the damage. And this is supported by the engineer's comment which state the damaged tile wasn't in the area where the access and repair occurred. And so, I'm satisfied Astrenska can't fairly rely on this exclusion.
- Because a tile can't be sourced to match the existing floor, our Investigator said Astrenska needed to replace the entire floor. And I agree that's a fair outcome here as to do otherwise would leave Mr S with an unmatching floor. Whilst the tile can't be replaced with an exact match - as Mr S has said it's no longer available - given the type of tile, I don't doubt Astrenska would be able to source a reasonable replacement tile of comparable quality.
- Neither party has provided estimates demonstrating the anticipated costs of replacing the entire floor and so, I have very little to go on in terms of likely costs. But I consider it reasonable for Astrenska to source the replacement tiles and have its own contractor fit them *or* provide Mr S with a cash settlement so he can source the tiles and appoint his own contractor to carry out the work it sees fit.

Compensation

- Astrenska accepted the Investigator's finding that it should pay Mr S £100 compensation. From what I've seen, I consider this amount reasonably reflects the miscommunication Mr S experienced following the engineer's visit.

My final decision

My final decision is I uphold this complaint and direct Astrenska Insurance Limited to:

- Replace the entire bathroom floor. At its discretion it can choose to settle the matter by either:
 - A) sourcing comparable tiles of equivalent quality itself and appointing its own contractor to fit them, *or*
 - B) paying Mr S a cash settlement amount to cover the cost of him buying comparable tiles of equivalent quality and appointing his own contractor to complete the works. Mr S will need to provide Astrenska with two estimates/quotes detailing the costs involved in doing so – which it can then settle to the lower of the quotes.
- Pay Mr S £100 compensation. Astrenska must pay the compensation within 28 days of the date on which we tell it Mr S accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 October 2023.

Nicola Beakhust

Ombudsman