

The complaint

Mr N complains Ageas Insurance Limited unfairly have declined his claim following a fire at his property.

What happened

The details of this complaint are well known to the parties, so I won't repeat them here. But briefly, and in the interest of context:

- Mr N's rental property suffered a fire which was reported to Ageas by his broker around a month later.
- Assessing the claim, Ageas appointed a specialist investigator, 'G', to provide a report. It concluded the fire most likely started as the result of illegal activity – cannabis cultivation – in the roof space of the property. Ageas relied on this in declining the claim.
- Mr N appointed a loss assessor, 'A', to represent him in challenging Ageas' decision. It argued that Ageas had not done enough to prove its illegal activities exclusion applied.
- Mr N appointed his own expert 'P' around one year after the fire took place to counter the findings of Ageas' experts. P undertook a desktop review of the evidence without visiting the property and challenged the veracity of G's findings.
- Ageas didn't find Mr N's evidence persuasive and remained of the view the claim should be declined.
- Mr N brought a complaint to this service which wasn't upheld by our investigator. As Mr N didn't accept the investigator's recommendation the complaint has been passed to me to decide.

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'm not upholding it, and for broadly the same reasons as our investigator. I'll explain why.

I'm aware there have been detailed submissions and that I haven't referred to all of them. That's not intended as a discourtesy to the parties, it simply reflects the role of our service to reach outcomes quickly, and with the minimum of formality.

There are some unusual features in this case, but I'll focus on what's important. It's not in

dispute there was a fire at Mr N's property, nor that his insurance policy provides cover for such an event. What *is* in dispute is the cause of the fire, and that this has given rise to Ageas declining the claim.

My role is not to act as an expert in fire investigation, it's simply to decide whether Ageas has acted fairly in relying on the 'illegal activities' term in its policy which excludes:

*'any loss or damage, legal liability of whatsoever nature directly or indirectly caused by or contributed to, by or arising from the **Premises** being used for illegal activities'*

To do this I've reviewed the expert submissions from G and P, along with the report provided by the attending fire service, to help me decide which arguments and evidence I'm more persuaded by.

G's report

G's report details a number of items consistent with cannabis cultivation it found in the loft. It provided pictures of plant pots, soil, ventilation ductwork, a fan, and a grow lamp. There is also a picture of a highly unusual arrangement of double sockets set together three wide, and three deep, providing 18 outlets in total – which appears inconsistent with typical use of a loft space.

That alone, though, isn't enough to safely conclude this was the cause of the fire. But, Ageas has also provided the fire service report which details the roof space as being the seat of the fire and the cause was *'negligent use of equipment or appliance (heat source)'*. It goes on to say that the source of ignition was *'electric lighting – fluorescent lights'*.

P' report

P did not have the opportunity to visit the property to review any of the post-fire evidence. It was a year before it was instructed and, as it explains, renovations had already taken place and 'evidence was not secured for further investigation'. Therefore, its report is a desktop review of the conclusions reached by G, and the fire service. And the broad thrust of its conclusions and arguments is that there were opportunities to more robustly test the evidence offered which were not followed through, and therefore it hasn't been proven that there was illegal activity, or that it was the cause of the fire.

Analysis

I'm persuaded by submissions provided by Ageas. I say this because it has shown evidence of illegal activities in the roof space – including a grow lamp (fluorescent light), and that a fire started in the loft from that type of fixture. I think it has done enough to prove the exclusion around illegal activity applies on this basis.

I'm not persuaded by P's arguments for the following reasons:

- It hasn't offered any countering analysis of the actual post-fire evidence because it has been unable to do so due to it having been removed due to renovation.
- It suggests there is not enough evidence of cannabis cultivation yet says *'on the balance of probability it is likely that some sort of cultivation activity could have taken place due to the items found by G'*
- In relation to the fire service's determination of the origin of fire (fluorescent light fitting) it says, *'in our opinion, the potential cause(s) can be attributed to incorrect wiring, overloading, loose wiring connection....'* I think this is exactly the kind of negligent or malicious use of electrical apparatus that accompanies illegal cultivation.

Conclusion

For all the reasons set out above I think Ageas has acted fairly in relying on its illegal activities exclusion and declining this claim. I find the evidence offered by Ageas' experts more persuasive and, on balance, I'm satisfied it's done enough to show there was illegal activity taking place leading to the fire.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 19 August 2024.

Andy Howell
Ombudsman