

The complaint

Mr L complains that, following a house fire, HDI Global Speciality SE (HDI) delayed handling his claim and voided his policy.

Mr L had buildings and contents insurance underwritten by HDI. His loss assessor handled the complaint but, for ease of reading, I'll only refer to Mr L throughout my decision. Any reference to HDI includes actions taken by its agents.

What happened

Mr L bought his policy in 2019 through an online comparison site. In 2022, he claimed under the policy after a fire in his home caused significant damage. HDI looked into the claim. In doing so, it found that Mr L hadn't given accurate information when he bought the policy about the year his home was built, and he didn't correct it at subsequent renewals.

HDI told Mr L that if he'd given the correct information when he applied for the policy, it wouldn't have offered cover based on its underwriting criteria. And because Mr L was aware of the correct information, HDI considered this a deliberate or reckless qualifying misrepresentation. HDI told Mr L that it was voiding his policy, declining the claim and keeping the premium he'd paid.

Mr L brought his complaint to us, but our investigator didn't think it should be upheld. He agreed there'd been a qualifying misrepresentation, that it was deliberate or reckless, and that HDI was entitled to void Mr L's policy and keep the premium he'd paid. Our investigator agreed there'd been delays in handling Mr L's claim, but for unavoidable reasons.

Mr L didn't agree, so the complaint was 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.

The relevant law in this case is The Consumer Insurance (Disclosure and Misrepresentation) 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.

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.

HDI investigated a number of matters regarding the policy but, in reaching my decision, I've only considered whether HDI treated Mr L fairly when it voided his policy for the reason it gave.

Reasonable care

HDI thinks Mr L failed to take reasonable care not to make a misrepresentation when he bought his policy because he gave incorrect information about the year his house was built.

I've looked at the question HDI asked and I'm satisfied it was a clear question requiring Mr L to say when his house was built.

Mr L said he put the year of modernisations. I've looked at the information provided alongside the question to help him give a correct answer:

When the property was built: Please give the approximate year that the property's foundations were first built - not subsequent re-builds, renovations or extensions. If you don't know when the property was built, please check your mortgage valuation or a previous survey. If you are still unsure, please enter your best estimate.

I'm satisfied it was clear that the year of the original build was required rather than when modernisations were carried out. Therefore, I think it was reasonable for HDI to say Mr L hadn't taken reasonable care not to make a misrepresentation.

Was it a qualifying misrepresentation?

In its evidence, HDI provided statements from Mr L's interviews, other insurance policies, and online information. The evidence confirms that Mr L was aware his house was originally built at least 100 years before the date he gave.

HDI provided evidence of its underwriting criteria. The evidence shows that if Mr L had declared the correct year of build, HDI would never have offered him cover. Therefore, I'm satisfied that HDI reasonably concluded that Mr L made a qualifying misrepresentation.

Was the misrepresentation deliberate or reckless?

HDI classed the misrepresentation as deliberate or reckless.

Mr L confirmed that when he first bought the property he knew the century in which it was built, and he'd published that information online. Further, documents from his house purchase just a few years earlier were also available to him to check.

Based on this evidence, I think Mr L's admitted knowledge of the property shows this goes beyond a careless misrepresentation. Therefore, I think HDI reasonably classed the qualifying misrepresentation as deliberate or reckless. That is, he either deliberately misled it, or didn't care whether his answer was true when he applied for the insurance.

Outcome

HDI voided the policy, refused to pay the claim, and kept the premium Mr L had paid. I'm satisfied that this is the remedy available to HDI under CIDRA for a qualifying deliberate or reckless misrepresentation, and it reflects our approach to misrepresentation cases.

So, for the reasons I've given here, I'm satisfied that HDI fairly and reasonably voided Mr L's policy. In effect, the policy never existed, so Mr L didn't have a valid claim for HDI to pay.

New information

More recently, Mr L provided a copy of a structural survey carried out at the time he bought his house. The build date is the same as that which he provided when he bought his policy. HDI said it had never been provided with the report before reaching its decision to void the policy.

Mr L also said a large percentage of his house was significantly modernised, so it was reasonable for him to give the build date reflecting those modernisations.

I've thought carefully about Mr L's recent evidence, but it doesn't persuade me that HDI treated him unfairly when it voided his policy. That's because, even though one report shows a matching build date to that which he declared when he bought the policy, there's far more evidence, some of which I've mentioned above, to confirm that Mr L knew that the house was built in an earlier century.

Furthermore, when Mr L answered the question about when his house was built, the information provided with the question made it clear that the original year of build was required, rather than when any renovations were carried out.

For these reasons, I'm not persuaded that the new evidence Mr L provided warrants a different outcome.

Delay

Moving on, I've considered Mr L's complaint about the time it took for HDI to reach a decision. There's a lot of evidence available to me, and I can see that this was not a straightforward claim. Because of that, HDI carried out investigations which unavoidably took longer than Mr L might've expected. I also note that when HDI reached its decision, it still hadn't received information it'd asked for from Mr L's agent. I'm satisfied that the delays were either necessarily unavoidable or not caused by HDI.

I don't find that HDI caused avoidable delays, so I don't uphold this element of Mr L's complaint.

My final decision

For the reasons I've given, my final decision is that I don't uphold Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 1 March 2024.

Debra Vaughan

Ombudsman