

The complaint

Ms D complains Royal & Sun Alliance Insurance Limited (“RSA”) has unfairly declined her claim on her property insurance policy.

All references to RSA include its agents.

What happened

Ms D took out an insurance policy in November 2022 to cover her commercial property which she’d been renting out to a tenant for several years.

Around March 2023, Ms D says she noticed she hadn’t received the last monthly rental payment from her tenant via her agency and, when she looked into why, she found the tenant had left the property in February 2023. She says they left with no notice after having caused a lot of damage. So she made a claim on her insurance policy.

Ms D sent RSA an estimate of around £78,000 for the work that was required to repair the damage to her property. She said repairs were needed to the kitchen, bathroom, her wiring, the window frames and doors. She also thought RSA should cover the cost of fully redecorating the property and reimbursing her the amount she’d paid to clear the rubbish.

RSA investigated Ms D’s claim. It reviewed photos of the damage and the further information she provided about the circumstances of the tenancy. And it carried out an inspection of the property. Around September 2023, RSA let Ms D know it had declined her claim as it said it wasn’t caused by an insured event. In particular, it said it didn’t cover loss or damage caused by gradual deterioration or wear and tear and it didn’t think the damage was caused maliciously under the terms of the policy.

Unhappy with RSA’s decision, Ms D made a complaint and RSA issued its final response around October 2023. It accepted it had caused a small delay and offered Ms D £150 to make up for this. But otherwise, it didn’t think it had done anything wrong. As the complaint wasn’t resolved, Ms D asked our service to look into things. In the meantime, she’s explained she sold her property at a loss because she couldn’t afford to keep up her necessary repayments or carry out the repairs in order to rent it out again.

Our Investigator didn’t uphold the complaint. He said in summary that he didn’t think the claim was covered under the policy terms relating to accidental or malicious damage as it seemed the damage was caused by neglect and a lack of maintenance. As Ms D didn’t accept our Investigator’s assessment, the complaint was passed to me to reach an Ombudsman’s decision on.

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.

Based on everything I've seen, I've decided not to uphold this complaint, I'll explain why. I know Ms D will be very disappointed as I understand she's gone through a very difficult year. But I thank her for taking the time to explain what's happened in the detail she has.

Under the terms of the policy, Ms D can claim for loss or damage to her property, caused by specific insured events set out on page 18 of her policy booklet. The most relevant terms in this case include damage caused by an accident or by a malicious person.

Ms D says her tenant left her property in a serious state of disrepair – so she thinks the claim should be covered. But the issue in dispute here is whether the damage was caused maliciously or accidentally. And looking at all of the evidence provided, I don't think it was.

Ms D's policy doesn't define malicious or accidental damage but as per their usual meanings, I'd consider the damage to be malicious in this case if Ms D's tenant intended to do deliberate harm to her. And I'd consider the damage to be accidental if it was unintentional and unforeseen.

I've looked carefully at the photos Ms D's provided and the details she's given us and RSA about the damage to her property. She's said her windows, toilet and bathroom were smashed and her wiring was tampered with but I can't see this from the photos or any other evidence provided.

The key damage I can see is Ms D's property was left in a very untidy condition with a great deal of belongings in each room and in the garden. She's also said her property needs general redecoration and repair in every room which I accept. But whilst I appreciate the state the property was left in would cost Ms D to put right, I can't say it's more likely it was done to deliberately cause her harm or that the damage caused was unintentional or unforeseen. Instead it seems more likely it's been caused by neglect and a lack of maintenance over a period of time. So I don't think RSA has declined Ms D's claim unfairly as I'm not satisfied it falls within any of the insured events listed under the policy.

Ms D's complained the time RSA took to decide her claim cost her financially. She said whilst it was looking into things, she had to continue making her mortgage repayments and paying the bills including her council tax. But I don't think this makes a difference to the outcome of this case. Claims of this nature will take some time to investigate before a decision can be reached by the insurer – and during this time, it's not unusual for customers to need to keep making standard monthly repayments.

I know Ms D thinks RSA should've given her an answer much quicker than it did, but I don't think the amount of time it's taken here is unreasonable. I understand RSA's accepted it caused some delay between the end of May 2023 and July 2023 but it's already offered her £150 to make up for this.

My final decision

For the reasons set out above, I don't uphold Ms D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 18 April 2024.

Nadya Neve
Ombudsman