

The complaint

Mr B and Mrs Y complain that Fairmead Insurance Limited unfairly declined a claim they made on a landlord's insurance policy.

Mr B and Mrs Y are joint policyholders and referred this complaint jointly, but most of the correspondence on both the claim and the complaint was submitted by Mr B. Where I refer to him in this decision, it should be taken to include Mrs Y where relevant.

Similarly, where I refer to Fairmead within this decision, this includes its agents and representatives acting on its behalf.

What happened

Mr B and Mrs Y held a landlord's insurance policy for a property they owned and rented out. In December 2021, Mr B contacted Fairmead to make a claim under the rent guarantee section of the policy as the tenant was in arrears on their rent. He'd previously been in contact with Fairmead between April and November 2020 about a possible claim and arrears being accrued by the tenant.

Fairmead subsequently declined cover for the claim. It said the tenant had been in arrears for a significant period before the claim had been made and the policy required claims to be notified within 45 days of arrears first being due.

Mr B was unhappy and complained to Fairmead. While it maintained that its decision to decline cover for the claim was correct, Fairmead did acknowledge there had been an unnecessary delay in informing him of the outcome of the claim and offered £150 compensation for this.

Mr B remained dissatisfied and referred his complaint to our service. Our investigator thought Fairmead had acted fairly when it declined the claim but that this should have been communicated sooner. She agreed the £150 offered by Fairmead as compensation was a reasonable amount.

Mr B disagreed with our investigator. The complaint has come to me for a final 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.

Mr B first contacted Fairmead in April 2020 to say the tenant was in arrears and enquiring how to make a claim. In May 2020, after further contact with Fairmead, Mr B emailed to say the tenant had now cleared the arrears and so no further action or claim was necessary.

Mr B emailed Fairmead again in November 2020 and said the tenant had continued to pay the arrears which was now a small amount from October 2020. He said he didn't believe it was necessary to pursue a claim but that if the situation deteriorated in the future, he would contact Fairmead.

A reasonable inference from Mr B's statement that he would contact Fairmead again if "*the situation deteriorates further*" would be that if the tenant incurred further arrears then Mr B would pursue the claim he'd earlier notified to Fairmead. It would further be reasonable to assume that Mr B would seek to recover the arrears mentioned by him through other means. It's fair to say there was no action necessary on Fairmead's part in light of what Mr B had said.

After Mr B's email in November 2020, there was then no further contact between him and Fairmead regarding arrears or a claim until December 2021. At that point he indicated the arrears had continued to accrue since October 2020. This would indicate that for a period of over a year, the situation with the arrears had deteriorated.

I've looked at the rent statements covering this period. These indicate a consistent accumulation of arrears by the tenant during this period due to not paying the full amount of rent which was due, albeit that the underpayments were not always for the same amounts, and there were some small payments which would reduce the total amount. There doesn't seem to have been any time within this period where the arrears had been entirely cleared.

The rent guarantee cover says Fairmead will pay the unpaid rent, subject to the relevant terms and conditions being met. This means that when the arrears were increasing between October 2020 and December 2021, Fairmead's liability was increasing.

A condition of this policy requires a claim to be notified within 45 days of the incident giving rise to the claim occurring. Fairmead's previously indicated that Mr B hadn't complied with this condition, as the arrears had started accruing in October 2020 but it wasn't notified until December 2021. However, it now seems to be agreed that this wasn't the case.

The incident giving rise to the claim here would, I'm satisfied, either be the original underpayment and arrears which Mr B informed Fairmead of in April 2020, or, alternatively, the underpayment and accruing of arrears in October 2020. I can see Mr B mentioned this in his email of November 2020 and so it's fair to say that either way, Fairmead was notified of the claim in accordance with the relevant condition. It may be relevant to note here that Fairmead has essentially considered this to be a continuation of the April 2020 claim, suggesting they considered it to be related to the original claim which was notified within the required timeframe.

However, I'm satisfied Fairmead could fairly decline cover for Mr B's claim which he pursued in December 2021. This is because the liability it was exposed to in December 2021 was significantly more than it would have been if he'd contacted Fairmead in late 2020 or early 2021. In December 2020 the arrears were a few hundred pounds, but by December 2021 they were in excess of £2,500.

I can't see that any reasonable explanation for the delay in pursuing the claim has been provided. It doesn't seem to be disputed that Mr B was aware of the arrears and that they were accumulating throughout 2021. He's said the amounts were fluctuating during this period, but there doesn't seem to be any dispute that there were arrears throughout this period.

I think it's fair to say that Mr B could, and should, have notified Fairmead much sooner as, plainly, the situation with the arrears was deteriorating as the tenant continued to underpay their rent and was failing to clear the arrears which were increasing. I note he'd contacted Fairmead in order to make a claim the first time the tenant went into arrears in April 2020. I can understand why, in the context of what happened there with the arrears being cleared shortly afterwards, he didn't pursue the claim in October 2020. However, when the arrears continued to accrue over the remainder of 2020 and into 2021, it's reasonable to say Mr B

should have contacted Fairmead in order to pursue the claim. I think he could, and should, have done so by the end of 2020 or early 2021 at the latest.

If Mr B had done so, Fairmead's liability would have been less than it was in December 2021 and it may have been able to instruct legal representation to deal with the matter sooner than it was able to. I conclude that Mr B didn't notify Fairmead in a timely fashion of the increasing arrears (and consequential increased claim liability) and so prejudiced Fairmead's position. As that's the case, Fairmead can fairly decline cover for the claim.

Fairmead has conceded that its handling of the claim should have been better, and acknowledged this by offering £150 compensation. The correspondence between Mr B and Fairmead shows that Mr B was clear from December 2021 that arrears had been accumulating since October 2020, and so it was, or should have been, evident that Fairmead's liability had been affected by the delay in pursuing the claim. However, it was several months before this was notified to Mr B, and a number of requests for information had been made and responded to.

However, I do think that, taking all the factors into consideration, the £150 offered as compensation is a fair amount in these circumstances. Mr B was caused inconvenience by responding to correspondence which was potentially unnecessary and he was under the impression the claim was covered when Fairmead could have declined cover sooner. However, the claim was declined fairly as I've outlined above.

My final decision

I don't uphold Mr B and Mrs Y's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs Y to accept or reject my decision before 14 June 2024.

Ben Williams
Ombudsman