

The complaint

Mr H complains that Advantage Insurance Company Limited (“Advantage”) unfairly declined his claim following the theft of his car.

What happened

Mr H noticed his car was missing on 13 May 2023, and reported it stolen to the police and to his insurer, Advantage. He says that after he reported it stolen, he started to receive parking and speeding fines.

The vehicle was subsequently found using a tracker linked to Mr H’s previous insurer, and it was found in a badly damaged state. Advantage appointed some experts to assess the vehicle and they confirmed that there was no evidence of theft-related damage to the car. Advantage asked Mr H some questions about the keys – and Mr H confirmed he had only ever used one key.

Advantage investigated further and contacted the dealership which had sold Mr H the vehicle. It said the car had been sold to Mr H with two keys. And after an assessment of the vehicle, it declined the claim on the basis that there was no evidence a theft had occurred. Mr H complained about the decision to decline the claim. He also complained that Advantage hadn’t responded to emails and call back requests.

Advantage considered the complaint but said it had correctly declined the claim, because there was no evidence of forced entry to the vehicle when it was inspected. So it concluded that it could only have been stolen using one of the two keys provided when the car was sold to Mr H. It offered Mr H £50 compensation for the fact it didn’t provide the level of service it should have.

Mr H disagreed and referred his complaint to this service. Our investigator considered the complaint and didn’t think Advantage had acted fairly. He said it hadn’t conducted a thorough investigation into Mr H’s claim in order to fairly decline it. Advantage responded to say it didn’t think it could conduct any further investigation and that for the claim to be covered there needs to have been a claimable event. And at the moment they have been unable to validate the claim against any of the insured perils.

Because Advantage didn’t agree with our investigator’s assessment, the complaint has now come 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’ve decided to uphold this complaint. I’ll explain why.

Advantage has declined the claim on the basis that there’s no evidence that a theft occurred. It’s relied on the fact that their expert report showed no evidence of any theft-related damage

and that two keys were programmed to the car, but Mr H was only in possession of one of them. It also said the car couldn't have been stolen using an immobiliser bypass device as there weren't any available on the market.

Advantage suggested to its appointed expert that they carry out a key read, however I can see that the expert responded to say a key read wouldn't be likely to assist investigations as the keys are not known to contain any user information. They added that if the vehicle was found locked then they'd recommend an electronic interrogation on the vehicle to check for evidence of theft methods and to confirm the number of keys currently programmed to the vehicle.

I can see that Advantage did carry out an electronic interrogation on the vehicle. This confirmed that there were no other keys programmed to Mr H's car, and the car did not have keyless entry, which ruled out the possibility of relay theft. So Advantage concluded based on the report that car could only be taken if one of the two original keys was used.

Mr H confirmed in an email to Advantage at the end of May 2023, that he had one key and didn't know what had happened to the other. He also said he didn't know how the vehicle had been stolen, and that he last drove it on Wednesday 10 May 2023 but noticed it missing on Saturday 13 May 2023 due to the fact it wasn't parked directly outside his home and he often uses public transport. He also said there were contractors going in and out of his home as he was having work done at his property, which could explain why he couldn't find the second key when he tried to look for it. I've found Mr H's testimony to be plausible. And the notes from Mr H's interview on 15 May 2023 also confirm that he answered all questions without hesitation and came across genuine. So I'm not persuaded that it's fair for Advantage to say there's no evidence of theft and to decline the claim on that basis.

I say this because Mr H has given a credible account of what happened and this includes details which could explain how the theft might've occurred, such as someone taking the key from Mr H's home. Although Mr H hasn't specifically suggested his spare key may have been stolen, I don't think Advantage has considered this possibility, which would be reasonable given the details Mr H has provided and taking into account all the other evidence in this case which points to an insured event occurring.

Advantage says they can't see what other investigation they could possibly carry out. But with all the evidence and information I've seen, I consider it more likely than not that the vehicle was stolen. Simply stating that there was no theft-related damage is in my view an insufficient argument to decline the claim, when there is other evidence that does strongly indicate a theft.

The car was found in a state which is consistent with the theft of vehicles, and both a speeding fine and parking fine were issued after it was reported stolen. It would've been too risky for the car to be driven erratically after the vehicle was reported stolen, unless there was indeed a theft. The photos taken for each parking fine show no damage to the car – and one of these fines was issued after the car was reported stolen, which I think also supports Mr H's testimony. This shows that the car was only damaged after the theft was reported. Mr H has said the car was full of rubbish and with the child car seat leg removed, which also persuades me that it was stolen.

Ultimately, Advantage has repudiated the claim on the basis that there was no evidence of theft, but I do not consider it has provided enough information to support that position. It's said that if the car or keys were left unattended, the claim would be declined due to exclusions in the policy. But there isn't a specific exclusion in the policy that Advantage has relied on to decline the claim in a situation where the keys may have been taken by someone unauthorised to do so.

Overall, I don't consider Advantage has done enough to show that it's considered other ways in which the keys could've been accessed and the car stolen. So I'm going to require it to reconsider the claim.

Putting things right

Advantage Insurance Company Limited must reconsider Mr H's claim subject to the remaining terms and conditions of his policy.

My final decision

My final decision is that I uphold this claim and I direct Advantage Insurance Company Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 June 2024.

Ifrah Malik
Ombudsman