

The complaint

Mr W has complained about HCC International Insurance Company Plc (HCC)'s decision to decline – and then make a 'without prejudice' offer for – an escape of water (EOW) claim he made for damage under his caravan insurance policy.

Mr W made a separate claim for storm damage which was declined. Mr W has not complained about this decision.

What happened

Mr W said he was notified by the caravan site team of a leak from a tap under the sink in his caravan on 11 October 2022. He said he'd last left the caravan on 1 October 2022 with the heating set to come on if temperatures hit 5 degrees or below.

Mr W made a claim to his insurer HCC. HCC instructed a claims team to deal with his claim on its behalf. In January 2023 a Loss Adjuster inspected the damage. Through a series of reports, the LA raised a number of different issues. In summary these were that there was no gas being supplied to the caravan as the LA said the gas bottle was empty when he visited in January 2023. There was no steam damage to the caravan which would have been expected if the water from the hot tap had burst and leaked. There was no evidence Mr W had recently purchased a gas bottle.

The following information was also provided by Mr W and the claims team to HCC:

In May 2022 the caravan site management had transferred a full gas bottle from Mr W's partner's caravan to Mr W's.

Mr W hadn't spent much time at the caravan during the summer of 2022, which was a hot summer and so the need to use gas was very low.

The temperature during early October 2022 was mild – and so it was unlikely that the heating would have needed to come on in any event – and so unlikely that the cause of the burst pipe was due to a freezing pipe.

However, HCC declined Mr W's claim. Mr W complained to the claims agent who advised him of the declination decision. As he didn't hear from them, he asked us to look at his complaint.

In March 2024, HCC responded to Mr W's complaint. It said that based on the information available, it would make a 'without prejudice' offer of a settlement of £10,000 to Mr W. Mr W rejected the offer.

Our Investigator recommended the complaint should be upheld. She thought HCC had unfairly declined Mr W's claim and caused an unnecessary delay in settling it. She found the offer of £10,000 on a without prejudice basis was unfair. There was no explanation for it, and if Mr W were to accept it, he would have had no recourse to complain about the amount. The Investigator explained that in line with the rules for insurers set by the regulator, an insurer

shouldn't decline a claim by relying on a condition that has been breached if that condition isn't material to the claim.

So she recommended HCC deal with Mr W's claim in line with the remaining terms and conditions and to pay interest on the settlement at a rate of 8% simple interest a year from one month after the claim was made to the date of payment. She recommended HCC pay Mr W £350 compensation for the distress and inconvenience caused.

HCC didn't agree and wants an ombudsman to decide. In summary it said the £10,000 was the reserve amount set to deal with both the EOW claim and the storm damage which it also declined. The evidence to show Mr W had set the thermostat at 5 degrees was a photo which showed the temperature set at the time the photo was taken. There was no steam damage to the caravan which it expected to see for a hot water leak. The damage to the caravan occurred four months after a replacement gas bottle was supplied to his caravan from his partner's caravan. Even if he hadn't used the caravan much during the summer, HCC says Mr W would have still used gas to cook and provide hot water.

Mr W accepted the Investigator's view.

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 W's policy with HCC says there is no cover for an escape of water if the caravan has been left unoccupied from 1 October until 14 March unless *"a full central heating system has been set to operate daily and overnight to avoid frost damage."*

The handbook for insurers written by the Financial Conduct Authority (the Insurers Conduct of Business Sourcebook) says the following about conditions of a policy and their relevance to a claim.

ICOBS 8.1.2B. Under *"Cases where rejection of consumer's claim is unreasonable: contracts on or after 1 August 2017"*

"For contracts entered into or variations agreed on or after 1 August 2017, a rejection of a consumer policyholder's claim for breach of a condition or warranty (that is not subject to and within section 10 or 11 of the Insurance Act 2015) is unreasonable unless the circumstances of the claim are connected to the breach."

Key points for this claim are:

There is no evidence there was no gas supply to the caravan at the time of the incident. Email exchanges show a gas bottle was supplied to Mr W's caravan in May 2022. Mr W said he visited the caravan two weeks after discovering the damage and cooked in October 2022, used hot water and showered. Evidence of a gas bottle supply to Mr W's caravan was provided to HCC's claim agent in March 2023, but it still declined the claim. It said Mr W hadn't provided proof he'd recently purchased a gas bottle.

It is acknowledged by HCC that the temperatures were mild during October 2022 – and so freezing temperatures did not occur for the heating to be required to come on. It therefore had no relevance to the fact that a water pipe burst: there is no evidence the cause of the burst water pipe was due to frost damage. And so the 'winterisation' term isn't relevant to Mr W's claim.

The offer amount of £10,000 is based on a reserve amount set by HCC's appointed claims team. HCC says this reserve was in fact based on both the EOW claim and the storm damage claim. But from viewing other claims, I've found that this amount is often an initial estimated amount, is subject to regular review and change, and is not necessarily a reflection of a final – or accurate – settlement sum.

So I don't think HCC has fairly dealt with Mr W's claim. I think HCC has caused unnecessary distress and inconvenience in its decision to reject it for the reasons it gave which I find unfair, and the delay this caused in settling his claim.

I'm therefore upholding Mr W's complaint in line with the Investigator's recommendations which are set out below.

My final decision

My final decision is that I uphold this complaint. I require HCC International Insurance Company Plc to do the following:

- Deal with Mr W's escape of water claim in line with the remaining terms and conditions of the policy.
- Pay interest on a settlement sum at a rate of 8% simple interest from a month after the claim was made until the date of payment.
- Pay Mr W £350 compensation for the distress and inconvenience caused.

HCC International Insurance Company Plc must pay the compensation within 28 days of the date on which we tell it Mr W accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 29 May 2024.

Geraldine Newbold
Ombudsman