

## **The complaint**

Mr and Mrs J complain FAIRMEAD INSURANCE LIMITED (“Fairmead”) unfairly declined a claim they made on their holiday home insurance policy following an escape of water at their holiday let property.

## **What happened**

On 19 December 2022 Mr and Mrs J visited their rental property and found water leaking, which had caused damage. It was noted by Fairmead that the damage had happened due to pipes from a water tank freezing in the loft. They contacted Fairmead to make a claim for the repairs under their policy. Fairmead ultimately declined the claim. It said that a ‘winter warranty’ endorsement that was on the policy hadn’t been adhered to. It said the gas usage of the property in the days leading up to the discovery of the leak didn’t support that the temperature of the property had been kept to 10 degrees in line with the winter warranty.

Mr and Mrs J complained about Fairmead’s decision. They said they were out of the country on the first day the gas usage on the property dropped – which was 13 December - so they couldn’t have altered the thermostat, and no one else had entered the property between the end of November 2022 and 19 December 2022.

Fairmead didn’t agree to change its position and issued a complaint final response letter (FRL) on 20 February 2023. Mr and Mrs J brought that complaint to the Financial Ombudsman Service for an independent review. An Investigator at this service didn’t recommend the complaint be upheld. He didn’t think Fairmead had acted unreasonably in declining the claim based on the information it had relating to the heating records and gas usage from the time. He said if Mr and Mrs J had further evidence, he’d expect Fairmead to review that. Neither party asked for a final decision to be issued on the complaint.

Mr and Mrs J did provide further evidence for Fairmead to review. It maintained that the claim should be declined. It issued a further complaint response, which Mr and Mrs J provided to this service on 5 April 2024. That complaint final response said that Mr and Mrs J’s evidence from a gas engineer didn’t demonstrate that the endorsement had been adhered to.

Mr and Mrs J referred this further complaint to this service. An Investigator here didn’t think Fairmead had acted unfairly in maintaining its decline of the claim.

Mr and Mrs J asked for an Ombudsman to review matters. They said the heating was continually on and set to 20 degrees which they’ve provided evidence for. They say the reason for the drop in temperature of the property had to be related to the leak.

Having referred the matter for a final decision, Mr and Mrs J provided a further report from an engineer (E) about the heating. This was provided to Fairmead for its comments, but it didn’t agree to change its position on the claim as a result. It said the report listed some hypotheses as to what had happened to the heating, but nothing was substantiated with evidence.

As the matter hasn’t been resolved, it has 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.

As this is an informal service I won't comment on every point made or piece of evidence referred to by Fairmead and Mr and Mrs J. However I'd like to reassure both parties that I've read and considered everything provided. That being said I need to be clear with the parties about what I am reviewing. Mr and Mrs J have had an answer from this service relating to their complaint about the initial claim decline. Whilst a final decision wasn't issued on that complaint, I can't review matters relating to that complaint again, as it was resolved in summer 2023.

What I will review is the further evidence provided by Mr and Mrs J, following that complaint answer from our service. And whether Fairmead's decision to maintain the decline of the claim, in light of that further evidence, was reasonable.

The further evidence provided by Mr and Mrs J in brief was:

- A statement from a gas engineer dated December 2023.
- A document from a boiler service showing an auto air vent was replaced in the loft in December 2023 (a year after the claim was made).
- Cleaning records showing the cleaner didn't enter the property from 28 November 2022 until March 2023.
- An email from them with comments from an unnamed expert with some possible reasons for the drop in temperature.
- A screenshot from Mr and Mrs J's energy provider saying that smart meters can sometimes have issues meaning gaps in energy usage can be seen.
- Engineering report dated 21 June 2024 (submitted after the Investigator's view).

Fairmead's position is that all of the above evidence doesn't confirm the winter warranty was met. The winter warranty endorsement says:

*"We will not be liable for loss or damage unless:*

*(a) For the period of December to March inclusive the water supply is turned off at the mains and all fixed water tanks and pipes are drained (except central heating systems) should the Property be uninhabited (not lived in) for more than 48 hours.*

*OR*

*(b) For the period of December to March inclusive the Home or Holiday home is maintained at a minimum temperature of 10 degrees Celsius at all times."*

Mr and Mrs J say they met part (b) of this because they had the temperature on the thermostat set to 20 degrees, which they say is evidenced by the information provided from their smart meter showing consistent energy usage between the end of November 2022 (when the previous guests left) until 12 December.

Mr and Mrs J have provided a report from a heating engineer (H) dated December 2023. His opinion was that with the heating consistently operating between 1 and 12 December, the property had reached the required set temperature and therefore the central heating went off, *"and for next 3 days slow heat loss occurred due to property being unoccupied and no doors or windows were opened thus increasing heat loss. On the 16th the central heating fired up again as property had cooled down."* H's view was that some time on 16 December is when the mains water system in the attic burst. So I think based on H's view, the winter warranty would have been satisfied.

Fairmead doesn't dispute that the evidence supports the heating was working before 12 December. What is in dispute is what happened after that. Fairmead doesn't think the property was maintained at a minimum temperature of 10 degrees. It says due to the

freezing temperatures around at the time, it would expect to see more gas usage in order for the property to be maintained at a minimum of 10 degrees, but there was barely any gas used between 13-15 December, or between the 17-19 December. There was evidence of some gas usage more consistent with earlier in the month on 16 December. But it said even with a well-insulated property it thought it was unlikely the internal temperature would be maintained for three days without any heating given the outside temperatures.

Having considered everything, I'm more persuaded by Fairmead's comments on this. I don't think H's view of matters is what most likely happened. This report doesn't evidence how the property would have retained temperatures of around 20 degrees – which Mr and Mrs J said the thermostat was set to - or even the 10 degrees needed to satisfy the warranty, with no heating being on for three days when the outside temperature was generally below freezing. And even if that was possible, H's report then doesn't go on to explain what it considers to have caused the leak from the tank, and how that might have happened with the temperature of the property being maintained above 10 degrees. So, I don't find this report the most persuasive when considering everything presented on this complaint.

Mr and Mrs J have also provided information in support of why the temperature in the property might have dropped, their engineers have suggested it could have been due to low pressure in the system or electricity power cuts due to the extreme weather having an impact. However, whilst those give a reason for the temperature in the property dropping, none of those are evidence that the winter warranty was adhered to. I think what Mr and Mrs J are essentially saying is that despite their best efforts in setting the thermostat, something might have gone wrong with the heating system causing the property to fall below 10 degrees. But I don't think it matters *why* the property fell below 10 degrees, I think the thing for me to decide is if it most likely *did* fall below 10 degrees, and so the winter warranty was breached.

Having considered all of the available evidence on this complaint, I think it's most likely the warranty was breached. Mr and Mrs J's report from E, dated 21 June 2024 concludes:

*“On the balance of probabilities, the most likely cause of intermittent heating in an unoccupied dwelling is low pressure in the heating circuit, leading to sporadic boiler activation. This issue, combined with the reported low temperatures at the time of the incident, likely resulted in the water within the tank freezing. The expansion caused by the freezing water likely led to the separation of the compression fitting, ultimately causing the escape of water.”*

I don't think it's most likely that the water in the tank would freeze if the property hadn't dropped below 10 degrees. That is the opinion of Fairmead's expert, and I don't think E's report disagrees with that.

I've noted Mr and Mrs J's comments that the smart meter can sometimes show low energy usage in error, and this could have been what has happened here. So I think their point is that perhaps the heating was running fine in the days leading up to the leak, but the energy usage not reflecting that is an error. I accept that is possible, but having considered all of the other comments, including from heating engineers who've been at the property, it doesn't seem that is most likely. Because it seems that if the heating had been maintained, the water in the pipes would likely not have frozen, which was noted - even by Mr and Mrs J's engineer E - to be the cause of the leak.

I understand there is evidence of gas usage on 16 December, which suggests the heating came on that day. But I don't think I really need to decide why that was, because overall, based on my findings above, I'm satisfied Fairmead has reasonably said the winter warranty hasn't been complied with in that the property wasn't maintained at a minimum of 10 degrees whilst unoccupied.

I don't doubt this has been a very stressful time for Mr and Mrs J, but as I find Fairmead has fairly declined the claim, it follows that I'm not going to ask it to do anything differently.

**My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 5 December 2024.

Michelle Henderson  
**Ombudsman**