

The complaint

Mr and Mrs M complain that U K Insurance Limited (“UKI”) has unfairly declined a claim for rent arrears under their landlord insurance policy.

Where I refer to UKI, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

The detailed background to this complaint is well known to both parties, so I’ll only summarise the key events here.

Mr and Mrs M let out a property. In September 2023, their tenants paid an early release fee to leave the property before the end of the tenancy. And they vacated in November 2023.

Mr and Mrs M informed the tenants that they’d be liable to pay the rent until the end of the tenancy or the arrival of a new tenant – whichever came sooner. But the tenants failed to pay the rent up until the new tenant moved into the property in January 2024. Mr and Mrs M made a claim to UKI under their landlord insurance for the unpaid rent.

UKI said it wouldn’t pay the rent under the Rent Guarantee section of the policy because the tenants had vacated and no repossession proceedings were needed, which is a condition of cover. But it agreed to consider covering the claim under the Rent Recovery section of the policy whereby it would pay the legal costs and expenses to pursue the tenants for the unpaid rent provided the remaining policy conditions were satisfied.

Mr and Mrs M didn’t think this was fair. They raised a complaint to our Service, but our Investigator didn’t uphold it. She was satisfied UKI had considered the claim in accordance with the policy terms and hadn’t acted unfairly.

Mr and Mrs M don’t agree and have asked for an Ombudsman to review their complaint. They say the policy covers them for rent arrears and the requirement for repossession proceedings is an impossible term because the property was abandoned by the tenants before any action could be taken. As such, they don’t consider the policy term to be enforceable.

The complaint has been passed 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.

I’d like to reassure Mr and Mrs M that whilst I may have condensed what they’ve told us in far less detail and in my own words, I’ve read and considered all their submissions in full. I’m satisfied I’ve captured the essence of the complaint and I don’t need to comment on every

point individually, or possibly in the level of detail they'd like, in order to reach my decision. This isn't meant as a discourtesy, but simply reflects the informal nature of our service.

In a matter like this, the first place to start is the contract – which, in this case, is the policy document – to determine whether the relevant terms and conditions have been applied correctly and in a way which is fair and reasonable.

The terms and conditions of Mr and Mrs M's landlord insurance policy says:

“Rent Guarantee

- 1. We will pay your rent arrears while your tenant or ex-tenant still occupies the let property up to a maximum of 12 months for any one claim.*
- 2. If after vacant possession the let property needs damage repaired to enable you to re-let it we will pay 50% of your rent arrears for a maximum of three months or until the let property is re-let, whichever happens first.*

Provided that:

In both 1 and 2 you have

- i. obtained a satisfactory reference for each tenant and each guarantor from a referencing service before the tenancy started; and*
- ii. kept clear and up-to-date rental records; and provided that [UKI] have accepted your claim under J (b) Repossession.”*

I understand that Mr and Mrs M's claim for rent arrears is for a period of time after their tenants had vacated the property, which they did so voluntarily and without the need for eviction proceedings. As such, Mr and Mrs M didn't need to make a claim for repossession under the policy.

For that reason, the circumstances of their claim don't fall within the policy terms set out above. I can understand why Mr and Mrs M are disappointed, but insurance policies aren't designed to cover every eventuality.

It's for UKI to decide what risks it's willing to insure and to what extent, and it will charge a premium based on the level of cover it's providing. As long as the cover is set out clearly in the policy documents, our service wouldn't usually involve ourselves in these commercial decisions.

For Rent Guarantee cover specifically, UKI has decided it will only pay unpaid rent if the tenant is still occupying the property and repossession proceedings are needed to gain vacant possession. Cover is only available after vacant possession if the property is damaged and needs repairing in order to be re-let. Neither of these circumstances apply to Mr and Mrs M's claim.

Mr and Mrs M say the policy is poorly drafted and misleading because the provision that a claim for repossession has to be accepted is arbitrarily tagged onto a requirement to keep proper rent records.

Whilst I appreciate the point they're making, the insurance policy must be read as a whole document, rather than looking at sentences in isolation. The Rent Guarantee section clearly

sets out the policy cover in two bullet points, with two conditions, and ten exclusions. I'm satisfied this information is clear, fair, and not misleading.

Mr and Mrs also say the policy condition UKI rely on is an "impossible term" because they wouldn't have been able to comply with it. But I don't agree.

I would consider an impossible term to be a policy condition which no policyholder could comply with in any claim circumstance. But there are many scenarios whereby a policyholder would have rent arrears and a claim for repossession had been accepted. The fact that Mr and Mrs M couldn't comply with this policy term reinforces the conclusion that their claim doesn't fall within the scope of cover offered by the Rent Guarantee section of the policy.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 9 September 2024.

Sheryl Sibley
Ombudsman