

The complaint

Mr A complains that AmTrust Europe Limited unfairly declined a claim for storm damage under his landlord insurance.

What happened

Mr A had a landlord insurance policy with AmTrust. In September 2023, his tenants sent him a video of water coming into the property during an evening of heavy rainfall. Mr A reported this to AmTrust and made a claim on his insurance.

AmTrust declined the claim. It told Mr A:

1. The weather at the time of loss didn't meet the policy definition of a storm.
2. The damage to the roof was consistent with wear and tear, which isn't covered by his policy.

Mr A was unhappy with this and brought his complaint to this service. He wants AmTrust to settle his claim.

Our investigator recommended that Mr A's complaint should be upheld. He was satisfied that the high winds should be considered storm conditions, and he didn't think AmTrust had shown that the storm wasn't the main cause of the damage. As a result, he didn't think it was reasonable for AmTrust to decline the claim. He recommended that it settle the claim in line with the remaining policy terms.

AmTrust disagreed with our investigator, so the case was passed to me.

My provisional decision

I issued a provisional decision on this complaint on 2 July 2024. I said:

"Like most policies, Mr A's cover only makes AmTrust liable for damage caused by certain insured events. The damage needs to be caused by one of the insured events listed in his policy."

The policy booklet shows Mr A is covered for damage caused by a storm. Page 7 of the booklet defines a storm as: "Strong winds in excess of forty-seven (47) knots (fifty-four (54) mph) that may be accompanied by heavy rain, snow or sleet. Torrential rain in excess of twenty-five (25) mm per hour..."

As our investigator explained, when we look at complaints about storm damage we ask three questions:

1. *Were there storm conditions on or around the date of the claim?*
2. *Is the damage consistent with storm damage?*
3. *Were the storm conditions the main cause of the damage?*

If the answer to any of these questions is “no” the claim won’t succeed.

AmTrust sent us the weather data it relied on to decide if there was a storm. This shows maximum windspeed of 43mph and 40mph on 19 and 20 September respectively. It also shows total rainfall of 24.2mm on 20 September, with a maximum of 4.6mm per hour.

Our investigator didn’t accept this. He said there were winds of up to 46mph on 19 and 20 September and thought this should be considered a storm. AmTrust replied: “...even if we accept your figure, 46mph is still well below 54mph so the policy definition has not been met.... As we maintain the answer to question 1 is no, the remaining questions become unnecessary.”

I looked at weather information for the week leading up to 20 September 2023. I found:

- Met Office information for the 2023/24 storm season doesn’t show any named storm for 19/20 September. The first named storm was storm Agnes on 27/28 September.*
- There wasn’t a Met Office weather warning for either rain or wind for Mr A’s part of the country on either 19 or 20 September.*
- Data from the nearest weather station to Mr A’s property shows high winds reaching 46mph on both 19 and 20 September. It recorded rainfall of up to 11.2mm per hour on 18 September.*

This doesn’t meet the policy definition of a storm. However, as our investigator explained, this service takes the view that damage can occur even when wind speed is lower than 54mph. I’m also conscious that the weather data I’ve reviewed was from a weather station ten miles from Mr A’s property. It’s possible there were stronger localised gusts of wind that weren’t recorded by the weather station. So it’s important I consider our other questions before I make my decision.

I think it’s reasonable to think strong winds might cause damage to a roof and result in rain getting into a property. I think AmTrust would accept this general point. The question then is whether strong winds were the main cause of damage.

AmTrust asked Mr A to provide “a report from your preferred contractor confirming the cause and extent of the damage”, as well as photos of the damage and two quotes for repairs. Mr A provided two quotes and some photos, but no separate report. AmTrust says Mr A’s photos show the damage was due to wear and tear.

Mr A says the report by his builder dated 14 October 2023 shows the damage was due to the bad weather. I don’t agree. While I accept it’s headed “Storm damage”, in my opinion this is little more than a quote which just sets out the repair work proposed. It says: “We feel that the front slope from the l/h hip to the joint with the neighbours [sic] roof is in need of major works” and recommends re-roofing that area because the existing tiles are no longer available. But it doesn’t explain what the damage is or make any findings on what caused this. Mr A’s other quote from 12 October 2023 doesn’t give any more details. So I don’t think Mr A has provided a report to help validate his claim.

I’ve studied the photos Mr A sent AmTrust, including close-up photos of the mortar and tiles. These show cracks in the mortar as well as areas where the mortar has come away from the roof. The photos don’t show obviously broken or damaged tiles, which I might have expected if the wind had been so severe as to cause such significant damage to the mortar.

Mr A told us the roof still had most of its original tiles and was in good condition. He said: “all ridges have been recemented... approximately six years ago”. However, we don’t have any

evidence of this work, or anything that shows the roof was in good condition before 20 September.

On balance, I'm not persuaded that there were storm force winds when Mr A's property was damaged or that the strong winds were the main cause of damage. Instead, I think the bad weather most likely exposed the existing poor condition of the roof. This means I don't think AmTrust acted unreasonably by declining Mr A's claim.

Mr A has also complained about AmTrust's handling of his claim. I agree with him that AmTrust might have managed his expectations better by checking the weather data immediately. Instead, it asked him to provide a report and quotes for repairs, which I can see led Mr A to think his claim had been accepted.

However, I think AmTrust reviewed the information that Mr A provided reasonably quickly. It asked for more photos and a report before it declined his claim on 14 November. In this case, I don't think this was an unreasonable amount of time to review the information and make a decision on the claim."

Responses to my provisional decision

AmTrust told us it had no further comments.

Mr A said, in summary, that he believes AmTrust's decision was unjust. He says it led him to believe it would accept his claim but instead looked for excuses to avoid paying out. He sent us a link to a file that he said contained recordings of his phone calls with AmTrust and asked me to listen to them.

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 our investigator explained, we couldn't access the link Mr A sent us. In any case, I don't think these recordings would change my findings.

As I explained in my provisional decision, I think AmTrust could have managed Mr A's expectations better. I understand why he thinks AmTrust led him to believe his claim would be accepted.

However, that doesn't automatically mean AmTrust's decision to decline the claim was unfair. Based on the reports available, I don't think there were storm force winds when Mr A's property was damaged or that the strong winds were the main cause of damage. So I don't think its decision to decline the claim was unreasonable.

My final decision

My final decision is that I don't uphold the complaint for the same reasons set out in my provisional decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 20 August 2024.

Simon Begley
Ombudsman