

The complaint

Mr A, on behalf of Mrs A, is unhappy with Liverpool Victoria Insurance Company Limited's (LV) decision to decline a claim made under her buildings insurance policy.

Any references to LV include their agents.

What happened

In October 2023, Mrs A moved out of her home. On 19 January 2024 a pipe burst in the loft which caused damage to Mrs A's home. Mrs A's son, Mr A, made a claim to LV, who instructed their loss adjuster to carry out an inspection and start preparing for any necessary repair works. In March 2024, LV declined the claim, saying the property hadn't been occupied as defined by the policy terms, so the damage caused by the burst pipe wasn't covered.

Mr A didn't agree with this and complained, but LV didn't change the decision to decline the claim. Mr A referred his complaint to the Financial Ombudsman Service. He said as a result of the decision to decline the claim, he and his brother had spent £2,500 trying to mitigate the damage to Mrs A's home, along with many hours spent trying to get the property ready for the necessary repairs to be carried out.

Mr A's concerns were reviewed by one of our investigators, but she didn't consider LV had unfairly declined the claim. Mr A didn't agree, saying he remained of the view a two-night stay in December 2023 had reset the unoccupancy clock. He also expressed concern with what he considered to be confusing and misleading correspondence from LV. Our investigator's conclusion remained the same, so this matter 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.

First, I'd like to reassure Mr A that while I've summarised the background to this complaint and his submissions to us, I've carefully considered all that's been said and sent. In this decision though, I haven't commented on each point that's been made and nor do our rules require me to. Instead, I've focused on what I think are the key issues.

The policy documents sent to Mrs A on 12 September 2023 set out what cover will be provided under the policy and what will be excluded. If loss or damage is marked by a tick, the policy provides cover. If loss or damage is marked by a cross, it doesn't. The exclusion LV is seeking to rely on is set out below, and marked by a cross in the policy documents:

“Water or oil leaking from any fixed tank, domestic appliance or pipe...

After your home has been unoccupied for more than 60 days in a row or doesn't have enough furniture or services for normal living purposes. By 'lived in' we mean stayed in and slept overnight for a least 2 nights in a row each week."

In the first instance, I'm satisfied the policy wording is clear in defining occupancy, but the policy wording refers to it as being 'lived in' as set out above. LV considers the property is occupied or lived in if someone sleeps there two nights in a row, each week.

It's not in dispute nobody was living at the property full time between the end of October 2023 when Mrs A moved out and mid-January 2024 when the pipe burst. So, based on this the exclusion LV are seeking to rely on applies.

Whilst Mr A and his brother seem to have regularly visited the property, it wasn't until mid-December that someone stayed there for two nights in a row. And, based on the information provided by both sides, this was the only time someone stayed for two consecutive nights between the end of October and mid-January. Therefore, according to the policy definition, when the pipe burst, the property had been unoccupied for more than 60 days in row.

Mr A says he's of the view that the two-night stay in December essentially reset the clock in relation to unoccupancy. The policy clearly sets out someone needs to stay each (my emphasis) week, so I don't agree with Mr A's conclusion the December stay reset the clock.

LV hadn't been notified that Mrs A was no longer living in the property when the pipe burst in the loft. From the end of October, as Mrs A's home wasn't slept in for two nights in a row each week, it was considered to be unoccupied, as defined by the policy terms. It follows I don't consider LV unfairly declined the claim and I'm not going to require it to take any further action.

I appreciate Mr A feels the communication with LV was challenging at times. And the nature of the claim meant finding things like paperwork was challenging due to the damage. I appreciate damage caused from a burst pipe can be far reaching and difficult to work through. But I don't consider LV's correspondence with Mr A to be confusing or misleading, even if there was a slight change in language at times. Ultimately, I'm satisfied the policy terms are clear, and for the reasons I've given, this claim hasn't been wrongly declined.

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 A to accept or reject my decision before 15 January 2025.

Emma Hawkins

Ombudsman