

## **The complaint**

Mr A, as a representative of the estate of Mr W, complains that Allianz Insurance Plc (Allianz) has unfairly refused a claim he made on behalf of the late Mr W after a theft.

## **What happened**

Mr W owned a pub that he let out to tenants. The tenants left some time in September 2023 and a little while later Mr A discovered that items had been stolen from the property. That was reported to Allianz, and it agreed to consider the claim.

Allianz said it wouldn't meet the claim, as there was no evidence that the policy condition applying to theft – that entry should have been both forcible and violent – had been met. Allianz said also that a further condition had also not been met. This said that the premises should be occupied overnight by either Mr W or his employee.

Mr A complained explaining that the outgoing tenant had stolen the items, but Allianz didn't change its position.

When our service reviewed the complaint, our investigator looked impartially at what both parties said. She noted some confusion about the date of the theft, but notwithstanding that, thought Allianz had dealt with the claim fairly. She agreed that there wasn't enough evidence to show that force and violence had been used to enter the property, as there was doubt about the condition of the locks. She did ask if Mr A could send her an end of tenancy check to support his claim, but one hasn't been provided.

Mr A believes the outgoing tenants must have stolen the property and that Allianz should meet the claim. I've been asked to decide this complaint.

## **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'm sorry that Mr A and his family have had to deal with this claim and the events that led up to it at such a difficult time, when they were dealing with losing Mr W. But having reviewed everything both parties have said, I cannot uphold this complaint. Both parties know what happened so I'm only going to cover the main points that affect my decision.

I can see from the correspondence and information provided by Allianz that there has been some uncertainty about when the theft took place. I don't know if that meant that Allianz was given an incorrect date initially or if Allianz recorded it incorrectly. I'm persuaded that the theft took place before September 13 2023 because that's the date it was reported to the police. And I don't see any reason to doubt that it was discovered on the 11<sup>th</sup> as Mr A says.

Mr A says the tenants or their accomplice(s) stole items when leaving. I haven't seen anything that confirms either the date they left or exactly when the theft took place. I've seen a letter from the tenant giving notice to quit dated the end of June. The tenancy agreement

only required four weeks notice, so they could have left any time after the end of (approximately) July. There's no end of tenancy inspection report that might have confirmed the leaving date. Mr A sent us a copy of an envelope written on by Mr W on August 7, which he says shows that's when the notice was accepted by him. That suggests the leaving date should have been September 4, based on the four week notice period. But I accept that Mr W and the tenant might have agreed on September 7 as Mr A says.

Mr A says his family visited the pub every week, although they couldn't see the private accommodation because it was occupied by the tenants. He hasn't provided anything that shows the last date the pub was visited prior to the theft – or whether he'd have been able to check that the stolen items were there at that point.

Allianz was right to agree to consider the claim, but it then fell to Mr A to show that the terms and conditions in Mr W's policy had been met. Those were that both force and violence had been used to enter the property, and that the occupancy condition was complied with.

It seems to me that the relevant things to consider are:

Was the occupancy condition met?

Was the likely thief the tenant – or, if the theft took place after the tenancy ended, was force and violence used to gain entry?

I'll comment on each separately.

### *Occupancy*

The policy requires – and Mr W agreed to this when he bought it – that the property would be occupied overnight by either him or an employee of his. Allianz says this wasn't complied with. Mr W wasn't there, and there's no suggestion that an employee of his was either. Mr A thinks that an employee of the tenant might have been in the pub overnight. But there's nothing in the paperwork that suggests the condition would be met in these circumstances. And from what Mr A told us, it's most likely the theft took place *after* the tenancy ended, which should have been September 7 at the latest. I say that because Mr A says the theft took place on the 11 September – and that this was also the date it was discovered. I'm afraid I agree with Allianz' interpretation of the policy on this point.

### *Force and violence*

I'll not go into detail about what comprises force and violence, as that's been covered in earlier communications. I would say though, that the terms and conditions require that both force *and* violence be used before this condition is met. From the photos I've seen, it appears that the locks have been damaged at some point. Mr A says they were bunged up by the thief. That's not the sort of damage generally associated with someone using force and violence to break in. I can also see that Allianz recorded that it was told more than once that there was no force and violence used to break in to the property. So I think it reasonable for Allianz to say this condition wasn't met during the theft.

I have also thought about what cover the policy provides for theft by a tenant, although I'm not saying that was what happened. I can't see anything that applies in these circumstances.

Having considered all the information provided, I'm satisfied Allianz has dealt with the claim

fairly.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr W to accept or reject my decision before 9 January 2025.

Susan Peters  
**Ombudsman**