

The complaint

Mr and Mrs K complain that Great Lakes Insurance SE turned down their landlord insurance claim.

What happened

Mr and Mrs K held landlord insurance cover with Great Lakes which covered their rental property. They made a claim as the property had been used for the cultivation of drugs and damaged in the process.

Great Lakes turned down the claim. It said Mr and Mrs K hadn't carried out inspections on the property every three months, as required under an endorsement to the policy. Unhappy with this, Mr and Mrs K brought a complaint to this service.

Our investigator didn't recommend the complaint be upheld. She thought it had been reasonable for Great Lakes to rely on the endorsement to turn down the claim.

I issued a provisional decision on 30 October 2024. Here's what I said:

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The policy explains that Great Lakes will pay up to £5,000 for loss or damage to the property for the purpose of cultivating drugs caused by a tenant. However, the policy schedule sets out the below endorsement that applied.

'LA16 - Illegal Cultivation of Drugs Extension

We will pay for *Damage* arising from *Your* tenant's use of the *Premises* for the manufacture, cultivation, harvest or processing by any other method of drugs classed as a controlled substance under the Misuse of Drugs Act (1971), provided that *You* or anyone acting on *Your* behalf:

a. carries out internal and external inspections of the *Buildings* at least every three months or as permitted under the tenancy agreement. You must:

- i. maintain a log of such inspections and retain that log for at least 24 months, and**
- ii. carry out a six monthly management check of the inspections log**

...'

The tenant moved in on 17 September 2021, therefore the first inspection was due to take place around 17 December 2021.

Mr and Mrs K wanted a survey to take place on the property for valuation purposes. They've told us that the need for this arose about a week before the first inspection was due, and they envisaged that an inspection would be carried out at the same time. However, they've said the tenant refused to allow anyone into the property so the inspection couldn't take place.

I've read emails sent between Mr K and the managing agent. On 18 January 2022, Mr K said he'd been trying to reach the agent as his surveyor had contacted their office a few times and left messages, but hadn't received a call back. The managing agent responded the following day to confirm they'd spoken with the surveyor and had explained they needed to arrange access with the tenant for the survey to take place. They then said they'd contacted the tenant to arrange this, but hadn't received a response.

It's not clear from this correspondence when the managing agent first tried to get in touch with the tenant. However, given that the surveyor hadn't been able to speak to the managing agent until 19 January 2022 to explain they wanted to value the property, this does suggest that the managing agent had only tried to contact the tenant on this date. I asked Mr and Mrs K if they could find out more information about this from the managing agent, but they said they weren't able to ask the managing agent for information.

I've also checked the tenancy agreement, and this doesn't say that an inspection would take place every three months. It says the tenant should allow the landlord or their agent to enter the property for the purpose of inspection if 24 hours' notice is given in writing.

There's no evidence that the managing agent had attempted to contact the tenant before 17 December 2021 to arrange an inspection (or survey). So I think it was correct for Great Lakes to conclude that Mr and Mrs K failed to comply with the endorsement.

I've next thought about whether Mr and Mrs K's failure to comply with the endorsement was material to the loss.

Given that the cannabis production started so soon after the tenant moved in, this would suggest that it was the tenant's sole aim to grow cannabis in the property. So I think it's unlikely that the tenant would have allowed access to the property the previous month when this wasn't given in January 2022.

If Mr and Mrs K had tried to gain access to the property around 17 December 2021 and the tenant had refused access, then Mr and Mrs K could have taken steps a month earlier than they did to gain entry to the property. Though as I understand it, the damage to the property was mainly holes to the ceilings. So I don't think the month's delay caused any further damage to the property that hadn't already been done.

In these particular circumstances, I think it'd be fair and reasonable for Great Lakes to pay the claim. I understand Mr and Mrs K have already had the repairs done, and the cost of this exceeded the policy limit of £5,000. I only intend to require Great Lakes to pay the limit of £5,000.'

I asked both parties for any comments they wished to make before I made a final decision.

Both parties responded to confirm they accepted my provisional decision. Though Mr and Mrs K said they thought the policy endorsement (LA07) had a £10,000 limit. However, they said they'd still be happy to accept a £5,000 settlement.

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.

Mr and Mrs K's policy covers damage to the property if certain insured perils occur as set out in Section One of the policy. One of those is damage by malicious persons, which is what this claim falls under.

The policy schedule includes a number of endorsements. Mr and Mrs K have referred to endorsement 'LA07 – Theft and Malicious Damage', which limits cover for both theft and malicious damage to £10,000. So they're correct to say that the policy covers up to £10,000 for malicious damage.

However, the policy terms include the following extension to Section One:

'16. Illegal Activities at the Premises

We will pay the costs incurred by You as a result of loss or damage to the Buildings for the purpose of cultivating drugs caused by Your tenant.

The maximum amount We will pay is £5,000 for any one claim.'

As the damage arose from the tenant's use of the property for the cultivation of cannabis, that means the settlement of the claim is limited to a maximum of £5,000.

I understand the repairs cost Mr and Mrs K around £9,000. As a policy limit applies, I'd expect Great Lakes to deduct the excess from the full cost of the claim, and then cover the remaining amount up to the limit. So I remain satisfied that Great Lakes should pay £5,000 and for the same reasons as set out in my provisional decision.

My final decision

My final decision is that I uphold this complaint. I require Great Lakes Insurance SE to pay Mr and Mrs K £5,000 in line with the remaining policy terms. Interest should be added to this at the rate of 8% simple per annum from a month after the claim was made to the date of settlement*.

*If Great Lakes considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr and Mrs K how much it's taken off. It should also give Mr and Mrs K a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs K to accept or reject my decision before 4 December 2024.

Chantelle Hurn-Ryan
Ombudsman