

## **The complaint**

Miss S complains that U K Insurance Limited trading as Direct Line has unfairly declined her claim for damage to a rental property she owns.

## **What happened**

In September 2023 Miss S entered into a tenancy agreement for a rental property she owns, which is insured by Direct Line.

After a few months the tenant stopped paying rent, so managing agents carried out a visit to the property to find it had been used to cultivate drugs and had been damaged.

Remnants of cannabis plants were found, as well as blackout material obscuring the windows. Floorboards had been lifted and broken in the living room and marks were left on walls from the tape used to hold blackout materials in place. Holes had also been made in walls and ceilings.

Miss S made a claim to Direct Line under her landlord policy for the damage and for loss of rent. Direct Line considered the claim, but declined it on the grounds that there was no cover for malicious damage caused by tenants. And it said this meant there was no cover for loss of rent either. Miss S didn't agree and complained. She said there was no mention anywhere in the policy that damage caused by malicious tenants was excluded from cover. She also said the time taken to decline the claim and the lack of communication was unreasonable. And she mentioned that the behaviour of Direct Line's loss adjuster had been inappropriate.

In its response to the complaint, Direct Line maintained its decision to decline the claim. It said that as there were no signs of forced entry, the tenant was responsible or complicit in some way for the damage. It reiterated that the policy contained an exclusion which said malicious damage caused by tenants wasn't covered. But it accepted that the level of service it had provided wasn't up to the expected standard and offered Miss S £400 compensation in recognition of this.

Miss S didn't accept Direct Line's response, so she referred her complaint to this service. Our Investigator considered it, but didn't think it should be upheld. The Investigator agreed that malicious damage caused by tenants was excluded and that the loss of rent provisions therefore weren't applicable. She also said the compensation offered was fair in the circumstances, based on the delays in Direct Line's handling of the claim and the overall service it had provided. Miss S didn't agree with our Investigator's view, so the complaint has now come 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.

As this is an informal service, I'm not going to respond here to every point or piece of evidence Miss S and Direct Line have provided. Instead, I've focused on those I consider to

be key or central to the issue in dispute. But I would like to reassure both parties that I have considered everything submitted. And having done so, I'm not upholding this complaint. I'll explain why.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and give appropriate information on its progress; and not unreasonably reject a claim. I've kept this in mind while considering this complaint together with what I consider to be fair and reasonable in all the circumstances.

Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide which risks it's willing to cover and set these out in the terms and conditions of the policy document. The issue is whether the claim falls under one of the agreed areas of cover within the policy.

Miss S's policy with Direct Line covers a number of contingencies including fire, earthquake, malicious persons, theft, storm, flood and escape of water. The malicious persons section specifies that "*Damage...caused by Your Employees, tenants or any other persons lawfully in Your premises*" is excluded from cover. This means the policy won't pay out for damage caused by the tenant or any person the tenant allowed into the property.

Whilst Miss S says the damage wasn't caused by her tenant, she's also told us the property was accessed by two other men according to the police report, using a key that had been left under the mat. In my view, and based on the evidence I've seen, the only two plausible scenarios are that the tenant allowed the people who caused the damage to enter the property. Or those people had accessed the property using the key under the mat and the tenant was complicit in some way. I don't consider the policy would cover either of those situations.

I say this because in the first scenario, where the tenant had let others into the property, those people were lawfully in the premises. And this situation is specifically excluded in the policy terms. If the people who caused the damage had accessed the property using the key under the mat, it is highly unlikely that they did so without the knowledge of the tenant. Given the type of damage that was found at the property, the damage couldn't have occurred without the tenant's knowledge; the perpetrators would've had to be in the property over a significant period of time and the tenant would've seen the damage and the equipment and had not reported it. Ultimately, I've seen no evidence that the damage occurred without the tenant's knowledge. So I'm persuaded by the evidence that the tenant was likely complicit and I think it's fair for the exclusion to apply in the circumstances.

Miss S says other people were not permitted in the property under her contract with the tenant. But I've not seen a copy of any executed contract which would not permit the tenant to invite other people into the property. And in any event, even a breach of such a contract would not be considered unlawful – so the exclusion would still apply.

I've looked at the original Landlord Statement of Fact which forms part of the Renewal Schedule. This includes the question, "Do you require cover for Malicious Damage by Tenants?" This has been answered "No". So I'm satisfied Miss S didn't choose to take out this optional additional cover which would've covered damage caused by her tenant.

Regarding the loss of rent claim, cover for loss of rent is only provided where the "*property...sustains Damage, for which liability has been admitted under Sections 1 or 2, causing an interruption of the Business which results in loss of Rent*". This means that for a claim for loss of rent to succeed, the damage which prevented the property from being let would need to have been caused by one of the insured events that the policy covers. As I'm

satisfied that the damage wasn't caused by an insured peril that's covered (as malicious damage caused by tenants or others lawfully in the premises is excluded) it follows that the loss of rent claim would also not succeed in this instance.

Looking at the overall claim journey, I can see Direct Line could've handled the claim better. Miss S made the claim in the middle of June 2024 and the decision was communicated to Miss S at the end of July, when it could've been made clear to Miss S sooner than this that the claim wouldn't be covered. Miss S also complained that the loss adjuster took too long to send through his report and his conduct was inappropriate. I've looked at the details about this and I can see Direct Line has not disputed these issues and has apologised for them, as well as for the fact that call backs were promised but not received and Miss S had to chase for updates.

Overall, I consider £400 compensation to be appropriate compensation for the poor service Miss S received. This level of compensation reflects the fact that the impact of the level of service provided by Direct Line caused Miss S considerable upset, as well as disruption that needed a lot of extra effort to sort out. This amount won't compensate Miss S for her lost rent or the cost of putting right the damage to the property, but this isn't the purpose of compensation for distress and inconvenience – it's not for the recovery of losses. Miss S can look at our website for examples of how we make awards for distress and inconvenience.

It follows therefore that I don't consider Direct Line to have declined Miss S's claim unfairly and I consider its offer of £400 compensation to be fair and reasonable in the circumstances.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 11 March 2025.

Ifrah Malik  
**Ombudsman**