

The complaint

Mr B has complained that AmTrust Specialty Limited ('AmTrust') unfairly declined his claim.

All reference to AmTrust includes any agents acting on its behalf.

What happened

Mr B bought an income protection policy on 2 November 2023, underwritten by AmTrust which would provide benefit if Mr B became unemployed, in line with the terms of the policy.

Mr B's employment was terminated and he had made a claim but AmTrust declined his claim. It said Mr B's employer was restructuring so he wasn't eligible for the policy, he left by mutual agreement and he was made aware that he would be made redundant within the first 120 days of the policy.

Mr B complained and unhappy with AmTrust's response, referred his complaint to the Financial Ombudsman Service.

Our investigator looked into the complaint but didn't think AmTrust had unreasonably declined the claim. Mr B disagreed and asked for an Ombudsman's decision.

So the case has been passed to me.

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.

Having done so, I don't think this complaint should be upheld. I'll explain why.

- The background to this matter has been set out in quite some detail by the investigator. So I won't repeat the facts here again. Instead I will focus on what I consider to be key to my conclusions.
- The relevant rules and industry guidelines say an insurer should handle claims promptly and fairly. And shouldn't unreasonably reject a claim.
- AmTrust gave three different reasons for declining Mr B's claim. But I will focus on the misrepresentation it says Mr B made.
- AmTrust said Mr B would have been aware that his employer was restructuring. Mr B says he was not aware that his employer was restructuring. So I have carefully reviewed and considered the evidence provided by AmTrust. It says had Mr B answered the question about changes in his organisation correctly, it wouldn't have offered him a policy and so he would have had no cover.
- The question asked: "*Do you know of any redundancies, restructure, reorganisation,*

formal or informal consultations, financial or contractual threats within the organisation you work in, even if you do not believe these actions will result in you becoming unemployed?”.

- Mr B answered ‘no’ to this question but AmTrust said he should have answered ‘yes’ as there were articles in the public domain about his employer, referring to changes in the organisation.
- Mr B says he wasn’t aware of any articles and he wasn’t senior enough to be aware of the discussions his employer may have been having internally. He says he took the policy after a conversation with a friend. Mr B wanted protection due to his personal circumstances and not as a result of any articles.
- As the articles were in the public domain, I think it’s more likely than not that Mr B was aware of some restructure or reorganisation and so he should have answered the question as a ‘yes’ especially since the question specifically says: *“even if you do not believe these actions will result in you becoming unemployed.”*
- Mr B says he wasn’t aware of potential redundancies and his termination wasn’t linked to the redundancies but that isn’t the test that needs to be satisfied. All he had to be aware of was the restructure or reorganisation and this would have made him ineligible for the policy.
- The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer. And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn’t made the misrepresentation.
- CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.
- AmTrust thinks Mr B failed to take reasonable care not to make a misrepresentation. I’ve looked at the question asked and I don’t think Mr B took reasonable care to answer the question. And AmTrust has shown that had he answered the question correctly, he wouldn’t have been eligible for the policy. This means I’m satisfied Mr B’s misrepresentation was a qualifying one.
- AmTrust has treated the misrepresentation as careless and has refunded Mr B’s premiums. I’ve looked at the actions AmTrust can take in accordance with CIDRA which are in line with the remedies detailed. So I think AmTrust has acted fairly and I can’t reasonably ask it to do anything more.

As Mr B would not have been eligible for the policy had he answered the question correctly, I won’t be making any findings on the other two reasons given by AmTrust to decline the claim.

My final decision

For the reasons set out above, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 June 2025.

Shamaila Hussain
Ombudsman