

## **The complaint**

Mr J complains that after making a claim on his van insurance policy, Haven Insurance Company Limited voided the policy and refused his claim.

## **What happened**

Both parties are familiar with the background to this complaint, so I'll only briefly summarise what happened here.

In June 2022, through a broker, Mr J took out a van insurance policy underwritten by Haven. In August 2022, Mr J was disqualified from driving and received a DG10 conviction. This disqualification was scheduled to end in December 2024. Following the disqualification, the policy continued with various named drivers being added on to cover at different points.

In January 2024, after his previous policy was cancelled for non-payment of the premium, Mr J took out a 'Restart' policy underwritten by Haven. Although the previous policy had covered the van for transport of goods, this new policy only covered Mr J to drive the van, and only provided cover for social, domestic and pleasure purposes.

In May 2024, Mr J contacted Haven to make a claim following the theft of his van. While investigating this claim, Haven learned of Mr J's disqualification from driving and it wrote to him in June 2024 to say it had decided to void the new policy from the date it was taken out in January 2024, refuse the claim, and retain the premium Mr J had paid. It explained it had taken these actions because it thought Mr J had deliberately made a misrepresentation by not disclosing his disqualification and DG10 conviction.

Mr J complained about this, and Haven provided a final response to the complaint on 9 August 2024 saying had it known about the disqualification it wouldn't have insured Mr J. So, it was satisfied the decision to void the policy was correct.

Mr J brought his complaint to us, and I provided an informal outcome to Mr J and Haven upholding the complaint in part.

In summary, I didn't find it unreasonable for Haven to have voided the new policy back to the inception date in January 2024, or for it to have refused the claim. This was because I was satisfied reasonable care hadn't been taken not to make a misrepresentation due to the disqualification and DG10 being undisclosed, and I thought the misrepresentation was a qualifying one since Haven had shown it wouldn't have offered the policy to Mr J had it known about the undisclosed convictions.

However, I didn't think it was fair for Haven to treat the misrepresentation as deliberate because evidence was provided showing Mr J had told his broker of his disqualification in November 2022. So, I wasn't persuaded Mr J purposefully had tried to conceal his disqualification from Haven. And to put things right, I said Haven should reimburse Mr J any premium he had paid from when the January 2024 policy was taken out and should add interest to this refund from the date the policy was cancelled to the date of settlement.

Mr J replied saying he accepted this outcome. But Haven didn't reply. Because Haven didn't reply, it's necessary for me to now issue a final decision on the 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.

Having done so, I've decided to uphold this complaint in part. I'll explain why.

Since Mr J and Haven haven't provided me with anything more to think about, I see no reason to depart from the position I set out in the informal outcome I provided. So, I'll restate here why I don't think it was unfair for Haven to have voided the policy and refused the claim, but why I think it was unfair for it not to refund the premium.

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.

Mr J's policy was taken out through a broker. And in that situation, the broker would stand in the consumer's place to take reasonable care not to make a misrepresentation to the insurer.

Haven doesn't think reasonable care was taken because at no point was it informed of Mr J's disqualification from driving and his DG10 conviction.

Haven provided a copy of the Statement of Fact for the policy taken out in January 2024. This says it must be checked, and Haven must be notified if any details are incorrect. It also says the insured and any named drivers must hold a valid driving license, and if they do not, cover will cease.

The Statement of Fact also contains the following question:

*"Have you or any person who may drive been convicted of any motoring offences, including fixed penalty offences, within the last five years?"*

The answer section to this question shows that the DG10 and driving disqualification weren't disclosed – only an IN10 conviction from August 2019 is shown as being disclosed.

So, I think this shows reasonable care wasn't taken not to make a misrepresentation. Because Haven asked a reasonably clear question about whether there were any convictions within the last five years, but it wasn't told about the driving disqualification and DG10.

I've next considered if the misrepresentation was a qualifying misrepresentation. Haven has provided confidential, business sensitive information which shows it wouldn't have offered Mr J cover when he took the policy out in January 2024 had it known about his driving disqualification. So, I'm satisfied the misrepresentation was a qualifying misrepresentation because had the misrepresentation not occurred, Haven would not have entered into the contract.

Under CIDRA a qualifying misrepresentation can either be deliberate or reckless, or careless. Haven said that it considered the non-disclosure of Mr J's disqualification and DG10 to have been deliberate misrepresentations.

But Mr J said that he disclosed this information to the broker. And Haven has provided evidence which shows that in November 2022 Mr J did inform his broker about the driving disqualification.

At the time, Mr J's policy was allowed to continue because the policy then was a commercial vehicle insurance policy and with the addition of a named driver on to the policy, the cover remained valid. But when the new policy was taken out in January 2024, the policy was no longer a commercial policy since cover was only provided for domestic, social and pleasure, and there were no longer any named drivers on the policy.

I think the key point here is that Mr J told the broker about his driving disqualification. And I don't think it's likely he would have done so had he been deliberately trying to hide his disqualification from Haven. So, I'm not persuaded Haven has shown the misrepresentation was deliberate.

Accordingly, I think Haven should have treated the qualifying misrepresentation as careless rather than deliberate. Since Haven wouldn't have entered into the contract with Mr J in January 2024 had it known about the disqualification and DG10, I'm satisfied under CIDRA it was entitled to void the policy from its inception date in January 2024 and refuse the claim. But because I don't think Haven has shown the qualifying misrepresentation was deliberate or reckless, and Haven hasn't provided any other reasons why it would be fair for it to do so, I don't think it was fair for Haven to retain the premium.

So, I've decided that Haven should reimburse Mr J any premium paid for the policy taken out in January 2024, and that it should add interest to this refund to reflect that Mr J should have received this refund when the policy was cancelled and has been without those funds.

### **Putting things right**

I require Haven to refund any premium Mr J has paid for the policy taken out on 12 January 2024. Haven should add to this refund eight percent simple interest per year calculated from the date the policy was voided to the date the refund is paid.

If Haven considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr J how much it's taken off. It should also give Mr J a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

My final decision is that I uphold this complaint in part, and I require Haven Insurance Company Limited to carry out what I've set out in the 'Putting things right' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 20 May 2025.

Daniel Tinkler  
**Ombudsman**