DRN-5600820

The complaint

Mrs M complains that Royal & Sun Alliance Insurance Limited trading as More Th<n (RSA) has unfairly handled a claim made on her commercial buildings policy.

Mrs M says RSA is unfairly declining to provide cover to damage caused to her rental property by its previous tenants. The tenants were living in the property in breach of the rental agreement and she feels all damage and losses incurred because of this should be covered.

What happened

Mrs M has brought her complaint to this Service with the assistance of her representative, but for ease of reference, I refer only to Mrs M throughout my decision in reference to any comments made by her, or her representative.

Mrs M needed to change the locks on her rental property after it became apparent the tenants were still occupying it after they'd stopped paying the rent. Once the locks were changed and access was granted, Mrs M noted damage throughout the property with damage to the following areas:

- The carpets within the property were damaged with cat faeces and urine. The carpet was beyond repair and needed replacing.
- The kitchen and bathroom flooring was damaged with urine staining consistent with the cats and needed replacing.
- The fire alarm in the property was damaged and needed replacing and there was damage to a door in the property.
- The tenants left items in the property which needed to be cleared at a cost to Mrs M.

Mrs M made a claim to RSA under her landlords insurance policy but RSA declined to cover most of the damage claimed for. The cost of the replacement locks was settled and RSA said some of the damage would be considered as malicious damage, but it needed to decide if it was likely this damage all occurred at the same time. If caused separately, separate claims would need to be made and each would have an excess applied.

RSA said it accepted the damage to the smoke alarm and door could be considered as malicious. But this would be treated as two claims and the excess for each would be applied. It said Mrs M should contact the claims team if the cost to repair each item, was in excess of the £100 claims excess.

RSA felt the damage caused by the cats could not be considered as malicious. And although the carpets and flooring were damaged, it felt this was a build up over time, based on the way the tenants lived and not something the policy provided cover for. RSA also said the policy does not provide cover to remove items left behind in a property. So while the property was rented without contents, it couldn't provide cover for the cost of removing contents left behind by a tenant.

Our investigator looked at this complaint and didn't think RSA had done anything wrong. They accepted there was some damage to the property which could be considered malicious, much like RSA. But they agreed an individual excess for the damaged areas would be fair as it was unlikely different rooms were damaged at the same time by the same event.

They didn't think the decision to decline the cost to repair the flooring and remove the contents left behind was unreasonable. The breach of the tenants rental agreement didn't mean keeping pets could be said to have been done with malicious intent to cause damage. And the evidence of the damage being sustained over a period of time, meant it wasn't reasonable to say this could have been accidental.

Mrs M didn't accept the investigators opinion but this remained unchanged. As a result, the complaint has been referred for decision.

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've decided not to uphold this complaint, for much the same reasons as our investigator. I know this will be disappointing for Mrs M, but I'll explain why I think RSA has made a fair claim decision on this complaint.

RSA has accepted that some of the damage to the property can be said to have been caused with malicious intent. But the areas accepted appear to be of low value in terms of the claim and it thinks it is right these are dealt with as individual claims with individual excesses applied.

I think this is a fair approach to take, based on the nature of the damage and where it took place. I agree with our investigator that it is difficult to say damage which has occurred in two separate locations will likely have been caused by the same one event. It follows that treating each as an individual claim for malicious damage is fair and reasonable. RSA has said it will consider the cost claimed for on these items if above the policy excess of £100 and I think this fair and reasonable and in line with the policy cover.

RSA has said when considering the bulk of the damage claimed for here, that it doesn't think it would be fair to say this has been malicious damage. This Service takes a view that malicious damage is generally accepted as damage caused with the intent of causing harm. With the policy not defining this, I've applied this approach when thinking about whether RSA has acted fairly when declining to cover the damage. And whether the exclusion it has relied on in doing so, has been fairly applied.

Mrs M has said the tenants actions and damage to the fire alarm and door demonstrate a propensity to cause malicious damage. And the level of damage to the flooring with cat faeces and urine, combined with the fact this could have been avoided, means it was allowed with a view to cause harm and damage. I understand this concern and why Mrs M holds this opinion, but I don't think it is fair to say this is the case or the intent of the tenants. And while I accept what Mrs M has said about the cats being discarded after the tenants left the property, pets are generally kept for the enjoyment and benefit of the owner. The lifestyle of that owner and how they choose to live with their pets is something each person is free to decide and while it is clear the tenant didn't clean up after the cats regularly, this alone cannot be said to be malicious in intent.

RSA has said it thinks the damage has happened gradually over time and I think this is a fair position to take. With this in mind, the exclusion it has relied on to decline cover for damage caused by an inherent vice, laten defect, wear and tear, gradual deterioration or any gradually operating cause, is fairly applied.

Mrs M has highlighted an issue with the estate agent managing the property and it being aware of the tenant having cats in the property. But this isn't something which RSA can be held responsible for and I think it adds weight to the fact, it is likely damage has happened gradually over time with the deterioration of the flooring. This is a result of the lifestyle of the tenants and how they kept the cats. And while I appreciate the upset caused when Mrs M discovered this damage, I don't think RSA acted unfairly when it said cover is not provided.

Equally, while I accept that Mrs M's tenants where supposed to remove all of their contents when vacating the property, I don't think RSA has acted unfairly when it has said it cannot cover the removal costs. The policy does provide cover for the removal rubbish and debris from the property in certain circumstances, but this is outside of the cover Mrs M has pointed to. This is only applicable if a claim for damage has been accepted and, as a result of this claim, items/rubbish need to be removed from the property.

Here, Mrs M discovered the tenant had left contents behind and she needed to bear the cost of having this removed. She explained the contents was worthless and charity shops refused to take it. However, this doesn't mean RSA need to cover the cost of this removal.

I appreciate this situation has caused Mrs M and her family both distress and inconvenience with her also explaining the impact of the cats in the property and this resulting in issues with fleas. She has also said this resulted in the property being uninhabitable for a period of time and she lost out on rental income. I've not seen a claim for loss of rent has been considered by RSA and if Mrs M feels this is the case, it would need to be raised with it in the first instance.

Overall, for the reasons I've set out above and in reference to the claim Mrs M has made, I don't think RSA has acted unfairly with how it has considered the claim for damage. It follows, that I am not asking it to take any additional steps now.

My final decision

For the reasons I've explained above, I don't uphold Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 30 September 2025.

Thomas Brissenden
Ombudsman