

The complaint

Mr A complains that Aviva Insurance Limited has unfairly handled a claim made on his commercial buildings insurance policy.

Mr A feels delays were added to the claim journey and this increased the time his property was unable to be re-let and he suffered a financial loss through loss of rent. He complains that Aviva and its actions are the cause of this and he'd taken reasonable steps to progress the claim after the notification of loss.

What happened

Damage was caused to Mr A's property by an escape of water and a claim was made via his broker on 24 January 2023. With Mr A raising his claim via his broker, he engaged with it on the progress of the claim. And Mr A said he had no contact from Aviva about the claim until June 2023.

Mr A's property is a rental property and he claimed for the damage to the property and the loss of rental income over the period the property was damaged and unable to be let out. Aviva said it was not willing to pay the loss of rent claimed for the entire period Mr A said it was unable to be let.

Aviva didn't think it had added a delay to the start of the claim and it had closed the claim down when it hadn't heard from Mr A with any response to its requests to him. And Mr A had failed to mitigate his losses by not looking to have the repairs completed sooner which added to the time the property was not let out.

Aviva made an offer to settle the claim in November 2023 which included the costs of the repair works and two months loss of rent only. This was based on its belief that it hadn't delayed the claim and Mr A had failed to mitigate his losses and so it didn't think more than two month's worth of rent was fair to pay. It said the works would have been completed in two months and that the time it would cover the loss of rent for.

Our investigator looked at this complaint and didn't think Aviva had made a fair claim decision. They set out the timeline of events from when Mr A first raised his claim and what happened. It showed Aviva had the wrong contact details for Mr A when it first tried to talk to him about the claim. This resulted in its efforts being unanswered and the claim being closed without Mr A wanting this to happen.

Once it was established the contact details were correct and the loss adjuster was appointed and viewed the property, there was a dispute over whether the property was underinsured with the total rebuild cost – something attributed to a broker error. And the overall condition of the property pre-loss and whether this impacted the claim. After around six weeks, Aviva agreed the properties condition had no bearing on the claim and it agreed to settle the claim, as I've set out above.

Our investigator felt delays had been added by the handling of the claim by Aviva, with both the initial failure to use the correct details provided and check with the broker these were

correct and the time spent dealing with the other concerns. They felt Mr A had taken steps to progress the works with quotes for repairs being provided and it was unreasonable to say he hadn't mitigated his losses and it would be unfair to make any deductions for this.

They recommended Aviva do the following to put things right:

- Consider the claim made by Mr A for his loss of rent in full when his property was uninhabitable, in line with the relevant terms of the policy.
- Remove any deductions made to the settlement because of Mr A failing to mitigate his circumstances.
- Pay Mr A £400 for the added inconvenience of dealing with this matter for longer than he ought to, because of the delays added.

Mr A accepted the recommendation.

Aviva accepted it was at fault for the delays but didn't accept the outcome as it didn't think Mr A had mitigated his losses. Because of this, it didn't think it was fair it paid for the loss of rent over the period claimed for.

Our investigators opinion remained and they felt Mr A had made reasonable attempts to mitigate his loss. Aviva failed to provide any further response and the complaint was 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 to uphold this complaint and will explain why I think it is fair and reasonable that Aviva extends the cover for the loss of rent with this claim.

With Aviva accepting delays have been added, I'm not going to repeat the timeline of events set out by our investigator within their view as this is not what is in dispute now.

Aviva has said the policy wording for Mr A's policy, on page 23 of the booklet is relevant and places the obligations on him, if a claim is made:

"YOUR OBLIGATIONS UNDER THIS SECTION

You must take reasonable action to minimise any interruption of, or interference with, Your Business to prevent or reduce the loss."

The question here is, did Mr A take reasonable action to minimise any interruption. Aviva feels temporary repairs could have been completed or decoration to allow the property to be rented out for a reduced rent but I am not persuaded this is reasonable.

In the first instance when a loss has occurred, it is reasonable to expect the insured to notify their insurer of the loss. Here Mr A did this promptly after the loss was noted. It was also confirmed that the source of the escape of water had been fixed and the electricity supply had been checked and made safe. So the risk of ongoing damage from the escape of water was stopped and Mr A, asked Aviva, as his insurer for assistance with getting the damage repaired.

Aviva has said it is surprised with the tenants having left, that Mr A did not look to take steps to get his property habitable again and re-let. But I think the simple fact he had made his

claim with his insurer and was actively chasing for updates on this was him taking reasonable steps to get the property back to a habitable state again.

The damage to the property and cost of these repairs has been estimated from the schedule of works to be over £5,500 before VAT is added. This isn't a small sum to find to complete the works and I don't think it is fair to say this falls into the expectation of reasonable steps for Mr A to look to complete this or a temporary repair himself. He had taken steps to raise his claim with his insurer and was under the impression this was being dealt with.

The policy provides cover for loss of rent from the date of the damage until the date the building is repaired or reinstated. Here, there was a significant delay in this taking place and while Aviva may feel the works would have been completed within 2 months, it failed to start the works promptly or deal with this claim as it should have. The impact has been felt by Mr A with his loss of rent and it is not fair he loses out because of the errors made by Aviva.

Once the loss adjuster had been appointed, further delays were added as investigations into the condition of the property took place. While I accept this could have been impacted by the water having been present in the property for longer than it could have been, the delay resulting in this has been accepted as the responsibility of Aviva.

It follows that I think Aviva needs to reconsider this claim in line with the remaining policy terms and provide the cover for loss of rent from the date of damage, until the date of repair, or estimated timeframe for this, if cash settled.

When the claim was settled, Aviva said it felt damage had been inflated due to the drying works not having been completed sooner. This meant the decorative damage to the neighbouring property was not something it would consider – a property also owned by Mr A and part of his portfolio of insured properties with Aviva.

As I've said, I think the delays in the works being completed, including any drying work can be said to be the fault of Aviva. Mr A in raising the claim promptly was taking reasonable steps to mitigate his loss and I don't think it is fair that Aviva makes the deductions it has for this.

In dealing with this claim, Mr A has been inconvenienced beyond what is reasonable. This will have taken time away from him with his business in carrying out the other activities he otherwise would. So it is fair that as well as the claim being reconsidered as I've set out above, that Aviva compensate Mr A £400 for this added inconvenience.

Putting things right

To put things right with this complaint and claim, Aviva need to do the following:

- Consider the claim made by Mr A for his loss of rent in full when his property was uninhabitable, doing so in line with the relevant terms of the policy.
- It should add 8% simple interest to this from the date it initially offered to settle this claim, until the date of payment.
- Remove any deductions made to the settlement because of Mr A failing to mitigate his circumstances. If this results in money being owed to Mr A, it should include 8% simple interest on any additional payment, from date of the previous settlement, until date of payment.
- Pay Mr A £400 for the added inconvenience of dealing with this matter for longer than he ought to, because of the delays added.

My final decision

For the reasons I've explained above, I uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 18 August 2025.

Thomas Brissenden
Ombudsman