

The complaint

Miss P complains U K Insurance Limited (“UKI”) unfairly voided her landlord insurance policy.

What happened

Miss P owns a residential property which she rents out to a tenant. She held a property owners policy underwritten by UKI which was taken out on 1 January 2024. Miss P contacted UKI in April 2024 to raise a claim which she said had occurred in January 2024. But UKI said after speaking to her broker and the managing agent for the building that Miss P’s property was in, they identified there had been an escape of water in December 2023, which UKI said occurred before the inception of the policy.

UKI said Miss P was asked whether any claims had been made or any losses suffered in the past five years when she took out the policy; and Miss P had answered “no”. UKI said if they had known about the escape of water, they wouldn’t have offered Miss P a policy at all. UKI considered this to be a deliberate or reckless breach, and they voided the policy and retained the premiums. As the policy was voided, Miss P’s claim was not covered.

Miss P felt this was unfair and raised a complaint. She said there had been confusion over the date of the loss and the damage was being covered by the building’s insurance policy. She said she had taken out the policy with UKI for legal cover or for any other cover not covered by the buildings insurance. Miss P said she’d notified UKI about the claim in April 2024 but wasn’t sure what date the loss had occurred but thought it was sometime in January 2024.

UKI considered the complaint but didn’t uphold it. They said they had spoken to the building’s managing agent and loss adjuster who confirmed the date of loss was December 2023 and they maintained that their voidance of the policy was fair. Miss P remained unhappy with the response to her complaint – so, she brought it to this Service. An Investigator looked at what had happened but didn’t recommend that the complaint should be upheld. She said she was satisfied UKI had acted fairly and reasonably in the circumstances.

Miss P disagreed with the Investigator’s findings and said she hadn’t intended to make a claim on the policy with UKI and didn’t understand the question being asked because all claims go through the building’s insurance policy.

I issued a provisional decision on this complaint, and I said the following:

“I want to start by acknowledging that I’ve intentionally summarised Miss P’s complaint in a lot less detail than she has presented it. No discourtesy is meant by this, and I want to assure Miss P that I have read and considered everything submitted in its entirety. However, I’ve focused on the main issues of the complaint in order to reach what I think is a fair and reasonable outcome overall.”

I've considered Miss P's policy, and I'm satisfied it is a non-consumer insurance contract, and that means the applicable law is set out in the Insurance Act 2015 ("the Act"). Essentially, the Act says that before the contract is entered into, the customer must disclose to the insurer every material circumstance which the customer knows or ought to know. A circumstance is material if it would influence the judgement of a prudent insurer in determining whether to take on the risk and, if so, on what terms. This requirement is known as the duty of fair presentation. If the insurer decides the customer didn't give a fair presentation, and they would have done something differently as a result of knowing that information, this is called a qualifying breach.

UKI said when Miss P took out the policy with them in January 2024, one of the questions they asked was: "Have any claims been made and/or any losses suffered whether insured or not in the past 5 years, in connection with any property (ies) you are looking to insure with us?" Miss P answered "no" to this question. But UKI says that there was a claim for damage to her property that had occurred in December 2023 due to an escape of water. I consider that the ongoing claim would be a material circumstance, and I'm satisfied a prudent insurer of a property would consider this information to be relevant to the risks posed.

An insurer will only have a remedy for a breach of the duty of fair presentation where they can demonstrate that, but for the breach, they either would not have entered into the contract of insurance at all or would have done so on different terms. UKI has provided evidence which shows that, if they had known about the previous claim, they wouldn't have provided cover at all, as it's not within their risk appetite to provide cover in these circumstances. Having considered this evidence, I'm satisfied it shows the breach of the duty of fair presentation was qualifying under the Act. So, I think UKI is reasonably entitled to apply the relevant remedy available to them.

The remedies available to an insurer depend on whether the qualifying breach was deliberate or reckless, or neither. UKI said they treated the qualifying breach as deliberate or reckless. The Act says this is where the customer either knew that they were in breach of the duty of fair presentation, or did not care whether or not they were in breach of that duty. The Act says that where the qualifying breach was deliberate or reckless the insurer can avoid the policy and refuse all claims, and they can keep the premiums paid. The Act also says that it is for the insurer to show that a qualifying breach was deliberate or reckless. I've therefore considered whether I'm satisfied UKI has fairly demonstrated this.

It's not in dispute that Miss P was aware a claim had been made, as she said all claims are made through the building's insurance policy. And she's explained that her understanding was that she didn't need to inform UKI about the claim as she wasn't making a claim under that policy. But I think the question clearly asked whether any claims had been made or losses suffered in connection with Miss P's property. And by answering no to this question, when she was aware there was an ongoing loss, I think that UKI has demonstrated the qualifying breach was deliberate or reckless. This means they are entitled to the remedy available to them under the Act, which is to void the policy, refuse all claims, and retain the premiums paid. As this is what UKI has already done, I'm satisfied that's fair and reasonable."

I invited both parties to provide a response to my provisional findings. UKI said they accepted my findings and didn't provide any further information for me to consider. Miss P responded but said she disagreed. She explained that the claim had been made after she took the policy out and there had never been a claim made before she took the policy with UKI. Miss P maintained that the evidence UKI had relied on was wrong and said the property management company had recorded the date incorrectly.

As both parties have now had the opportunity to provide a response, I will set out my final decision below.

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 reached the same conclusion as I did in my provisional decision, and I do not uphold this complaint.

I appreciate that Miss P has explained that no claims have ever been made on her property, and she's said she believes the information the management company provided was incorrect. I've considered the complaint history again, but I'm not persuaded that this can be demonstrated.

I've seen emails and photos of the damage to the property, and I'm persuaded by UKI's submission that the claim was ongoing for some time was a reasonable conclusion to reach. The email chains I've considered also outline that the damage was raised in December 2023. On that basis, I think UKI has fairly applied the relevant law in voiding the policy. So, I can't reasonably conclude they have done anything wrong here.

Ultimately, I'm satisfied that UKI following the Insurance Act and applying the remedies available to them in respect of a breach of duty of presentation produces a fair and reasonable outcome in the circumstances of this complaint. I appreciate this is not the answer Miss P had hoped for, but I trust my decision explains why I have reached the outcome I have.

My final decision

For the reasons I've set out above, 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 P to accept or reject my decision before 12 December 2025.

Stephen Howard
Ombudsman