

## The complaint

Mrs H complains that INTACT INSURANCE UK LIMITED ('Intact') avoided her landlord insurance policy due to misrepresentation and then turned down a claim.

Mrs H is represented in the claim and previously in the complaint by Mr H, so I've largely referred to him throughout this decision.

Any reference to Intact includes the actions of its agents.

## What happened

Mrs H held landlord insurance cover with Intact for a property she and Mr H owned.

In early 2024, the property was damaged by an escape of water. Intact had concerns that the property hadn't been occupied at the time. It then became aware that the property hadn't been tenanted for around two years. Intact said if it had known this at the following renewals, it wouldn't have offered cover. It avoided the policy back to September 2022, and returned the premiums paid since this date. That meant the claim was also turned down.

Unhappy with this, Mr H brought a complaint to this service on Mrs H's behalf.

I issued a provisional decision on 12 November 2025. Here's what I said:

*'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.'*

### Misrepresentation

*Intact told Mr H (on Mrs H's behalf) in February 2024 that it had a record of the property being tenanted, and so it applied its reservation of rights at that stage that the claim may not be covered whilst it carried out investigations. Although Intact referred to a policy exclusion in its final response letter, I note that this was after it had already avoided the policy due to misrepresentation. Therefore, I'm satisfied it didn't affirm the contract by its actions.*

*Although Intact has referred to the renewal date as being 8 December on the claim decline letter, the policy schedule shows it as being 8 September. I've therefore considered whether Intact has shown there was misrepresentation at renewal on 8 September 2022 and most importantly on 8 September 2023 (as the claim was made in the policy year 2023 – 2024).*

*As this is a landlord insurance policy which is a non-consumer contract, then the relevant legislation that I'd normally consider is the Insurance Act 2015. However, as Mr and Mrs H only have one second property, I agree with our investigator that Mrs H is more akin to a consumer. In these circumstances, I think it would be fair and reasonable to instead apply the principles as set out in 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.*

Mr H confirmed to Intact that the property was last tenanted in early 2022.

The renewal document (for both September 2022 and September 2023) asked Mrs H to check that the cover continued to meet her needs and contact it if she needed to make any changes. It then said:

*'You've chosen Buildings cover. This meets the demands and needs of customers who need to protect themselves from the cost of repair in the event of damage to the structure of their home, such as damage caused by fire or storm.'*

Under the 'endorsements' section of the document, it said that it was a buy to let policy. However, there's no other reference to the property being let out to tenants.

As Mrs H didn't tell Intact at renewal that the property was being let to tenants, that means Intact hasn't shown there was any misrepresentation in September 2022 or September 2023. I therefore find that it wasn't fair for Intact to avoid the policy and decline the claim based on misrepresentation.

In such cases, I would usually require an insurer to reinstate the policy and reassess the claim. However, here, Intact has already referred to a policy condition that it thinks Mrs H breached, and also a policy exclusion that it considers applies. I've therefore also considered these.

#### Policy condition

The renewal document said that Mrs H must tell Intact within 30 days as soon as she knows about changes in her circumstances, and that full details of the changes it needed to know about were shown in the policy wording. It also made it clear that if Mrs H didn't tell it about any changes, it could reject payment of a claim and in some cases the policy may be invalid.

I've read the policy document, and under the section 'Policy Conditions' it says:

*'Changes in your circumstances*

*...you must tell us within 30 days as soon as you know about any of the following changes:*

*...*

- The home is going to be unoccupied. For the purposes of this condition unoccupied means your home is going to be left without any occupants for more than a total of 60 days in any insurance period.'*

As the tenant moved out after the September 2021 renewal, there was essentially a change in risk partway through the policy year. That means that CIDRA doesn't apply. However, I'm satisfied the above condition was clearly brought to Mrs H's attention, and so I've thought about whether she breached this condition.

The policy doesn't define what's meant by occupant. The usual approach of this service is to therefore apply the ordinary meaning of the word. I think a reasonable interpretation of the meaning of the word in this context would be someone visiting the property on a regular basis.

Intact has raised concerns about inconsistencies Mr H has given in respect of how often he visited the property. I understand he told Intact/its agents on different occasions that he'd been visiting the property at least every two weeks, had visited every day, and also that he'd stayed there on weekdays and returned home at weekends.

*Mr H explains he suffers from time blindness and so it's difficult for him to be precise about how often he was at the property. Though he maintains that he regularly visited the property, which sometimes included overnight stays. He says his visits ranged between seven and 14 days a month.*

*However, the condition refers to the home being unoccupied for more than a total of 60 days in any insurance period. As explained in the policy schedule, the insurance period is the policy year (8 September to the following 7 September). Even if I were to accept that Mr H stayed at the property for 14 days a month (though given the utility bills show very low gas, electric and water usage over a year, I think this would be unlikely), this would still mean the property didn't have an occupant for significantly more than 60 days across the year.*

*Mr H has also said that he gave permission for two of his neighbours to park on the property's driveway, and they have access to the property if they wish to clean their cars. I don't think this means the home was occupied. The policy doesn't define what's meant by 'home', but I think the ordinary and everyday meaning of the word would be the house.*

*So, I think Mrs H ought to have told Intact within 30 days of the tenant moving out in early 2022 that the house would be unoccupied. I therefore find that there was a breach of the condition.*

*Given that this was a buy to let policy and the property was no longer being let to tenants, I think this was a fundamental change to the risk. Intact has shown that if it had known the property wasn't occupied, it wouldn't have been able to continue to offer cover under this policy from the following renewal (which would have been 8 September 2022).*

*As Intact has already avoided the policy from the September 2022 renewal, and returned the premiums paid since this date, I don't require it to do anything further in respect of the policy. As Intact wouldn't have offered Mrs H cover from the 2022 renewal, it follows that the claim wouldn't be payable.*

*However, as I've found there was no misrepresentation, I do intend to require Intact to remove any record of the avoidance from any internal or external databases.*

*Intact has also referred to an exclusion which says that damage isn't covered when the home hasn't been lived in for more than 60 days in a row. However, as I've already concluded that Mrs H breached the above policy condition and this would have led to renewal not being offered in September 2022, I don't need to also consider if this exclusion applies.*

#### *Handling of the claim*

*I think Mrs H was caused unnecessary confusion and distress by Intact's conclusion there had been misrepresentation at the policy renewal, when this wasn't the case. I intend to require Intact to pay her £100 compensation to recognise this.*

*Mr H says that Intact didn't send him some reports when he asked for these. Whilst I can appreciate this would have been frustrating, as Mr H isn't the policyholder, I can't take into account any impact to him caused by Intact's handling of the claim.'*

I asked both parties for any further comments they wished to make before I made a final decision.

Mrs H responded with the following main points:

- Mr H does suffer with time blindness, and he made an error when dealing with the claim by saying what he thought people wanted to hear about his attendance at the property.
- Within a few weeks of the last tenant moving out, Mr H began staying at the property whilst preparing for it to be sold. He only returned home when one of their children visited.

Intact responded to say it doesn't have any further information but says that if it does remove the avoidance markers then that would mean the policy had been active for the rest of the year. However, it returned the premiums paid for that policy year to Mrs H. So, it thinks Mrs H ought to repay these premiums.

### **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 considered Mrs H's comments, and I'd like to thank her for her open and honest response to me. I won't repeat that in detail here as it is personal to Mrs H.

Though I remain satisfied it was reasonable for Intact to say the property was unoccupied after the last tenant moved out. That's based on Mr H's own explanation of how the property was used (even accounting for his time blindness), but also the utility bills which show very little water, gas and electricity used for the year. All of this supports that the property was unoccupied (according to the policy definition), even if I were to accept that Mr H did sometimes stay there.

Intact says it thinks Mrs H should return the premiums it refunded if it is to remove the avoidance markers from her record. I don't agree that would be reasonable. I'll explain why.

I concluded in my provisional decision that there hadn't been misrepresentation and so Intact should not have avoided the policy. I said I would usually require an insurer to reinstate the policy (this would be subject to the repayment of any premiums returned) and reassess the claim.

However, Intact had also concluded that Mrs H had breached a policy condition which required her to tell Intact about changes in circumstances, including that the property had become unoccupied. I therefore considered this point, and I have agreed with Intact that Mrs H did breach this condition. Though I don't think Mrs H deliberately sought to mislead Intact about this, and instead it seems to me it was a careless mistake.

As Intact wouldn't have offered Mrs H cover from September 2022 if it had known the property was unoccupied, then returning the premiums paid since that date seems a fair and reasonable outcome (as Intact effectively wasn't on risk for that policy year). As Intact had already done this when it dealt with the matter as though there had been misrepresentation, I don't require it to do anything further regarding the policy. Though as I've found there wasn't misrepresentation on Mrs H's part, it wouldn't be fair for Intact to add avoidance markers to her record.

So, Intact should remove any record of the avoidance from any internal and external databases and won't be entitled to ask Mrs H to return the premium it refunded.

## **My final decision**

My final decision is that I uphold this complaint in part. I require INTACT INSURANCE UK LIMITED to remove any record of the avoidance from any internal and external databases.

I also require Intact to pay Mrs H £100 compensation\*.

\*Intact must pay the compensation within 28 days of the date on which we tell it Mrs H accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 25 December 2025.

Chantelle Hurn-Ryan  
**Ombudsman**