

The complaint

Mr and Mrs P are unhappy with what ARAG Legal Expenses Insurance Company Limited did following a claim on their landlord legal protection insurance policy.

Although the policy is in joint names, as the claim and complaint has been brought by Mr P, I'll mainly refer to him in this decision.

What happened

In August 2024 Mr P contacted ARAG as a tenant had caused damage to his property and he thought it unlikely they would pay rent due at the start of September. ARAG said rent arrears needed to have accrued for policy cover to be available for that and a claim for possession also needed to have been accepted. It suggested Mr P check if his property insurer could assist with the damage claim.

The tenants didn't pay the rent that was due and in October ARAG appointed solicitors to progress the rent recovery and damage claim. It said it wouldn't provide 'tenant default' cover (for the unpaid rent) because it was a condition of the policy that satisfactory references were obtained for each tenant. That wasn't the case for one of the tenants. Mr P raised further concerns about the progress of his claim. ARAG said it wasn't responsible for the actions of the panel firm. But it accepted there had been some delays in it responding to correspondence. It offered to pay Mr P a total of £250.

Our investigator thought ARAG was correct to say rent needed to be overdue before a claim could be made. She thought it acted fairly in declining the tenant default claim. She agreed it wasn't responsible for the actions of the panel firm. And she thought the £250 it offered for delay was appropriate.

Mr P didn't agree. He said the tenant reference wasn't satisfactory because of an outstanding County Court Judgement (CCJ). He'd provided ARAG with confirmation that had been settled. He didn't agree it fairly turned down his tenant default claim. And he'd asked for legal action to be against his tenants when he first contacted ARAG but it's delay meant that didn't happen. Since then one of the tenants had incurred other debts meaning recovery action would now be more difficult. And he highlighted a health condition affecting him which increased the impact of what ARAG got wrong.

So I need to reach a final 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.

The relevant rules and industry guidelines say ARAG has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably

Mr P's policy includes cover for 'tenant default'. That says it will "(a) pay your rent arrears while your tenant or ex-tenant still occupies your property up to a maximum of 12 months for any one claim, or the maximum number of monthly payments covered under your policy, whichever is lower; (b) if after vacant possession your property needs damage repaired to enable you to re-let it, we will pay 50% of your rent arrears for a maximum of three months or until your property is re-let, whichever happens first".

However, that's subject to conditions including that the policyholder "has obtained a satisfactory reference* for each tenant and each guarantor from a referencing service before the tenancy started". The policy says "the reference must include: written references from a previous managing agent or landlord; an employer (or any other financial source); and a credit-history check (including the Enforcement of Judgments Office, County Court Judgments and bankruptcy)". The policy also goes on to explain that cover applies "provided that we have accepted your claim under insured incident 1 Repossession".

ARAG was correct to say in August 2024 cover wasn't available under this section because no rent arrears existed at that point (the tenants were up to date with their rent). And it doesn't appear Mr P had issued the tenant with notices requiring possession of the property. That position then changed because (as Mr P anticipated) the tenants didn't pay the rent that was due in September 2024 or subsequently.

But it's not clear to me a claim for repossession was ever accepted by ARAG. Mr P says the tenants told him they wanted to end the tenancy at the start of September and cleared the property and returned the keys around three weeks later (following which Mr P obtained a check out report). When the matter was referred to panel solicitors in October the claim they were instructed to consider was to pursue the tenants for damage and rent recovery. So I'm not satisfied Mr P had a valid claim for tenant default at all.

Even if he did for cover to be provided a satisfactory reference for each tenant would need to have been obtained before the tenancy started. That didn't happen. I appreciate one tenant obtained a satisfactory reference (including a credit check) but the other is recorded as 'High Risk' based on unsatisfied adverse credit. And Mr P's letting agent confirmed after the tenancy had begun the credit check for that tenant was unsuccessful.

Mr P says that tenant paid off the outstanding CCJ which the unsatisfied credit related to (and he's provided evidence in support of that). But it doesn't appear a further credit check showing that was ever provided. So I don't think he has evidenced a satisfactory reference was in place covering this tenant. And I think it was fair of ARAG to decline to cover his tenant default claim on that basis (even assuming cover was available for it at all which, for the reasons I've already set out, I'm not persuaded it was).

Mr P's policy also says it will provide cover for "costs and expenses to recover rent owed by your tenant for your property if it has been overdue for at least one calendar month". So that is something his policy could assist with but only if the rent was overdue for that period. That wasn't the case when he first contacted ARAG. And if Mr P is concerned that (or any other term of the policy) wasn't brought to his attention when he first took it out that's something he'd need to raise with the business responsible for the sale (which wasn't ARAG).

The policy also provides cover for "costs and expenses for pursuing a civil dispute relating to your property following any event which causes physical damage to such property". Soon after contacting ARAG Mr P provided photographs showing damage he believed the tenant

had caused. But I don't think it was unreasonable of ARAG to initially suggest he check if this would be covered by his main landlord insurance policy.

Mr P then told ARAG in October 2024 this issue was resolved as he'd offset the cost of repair work against the tenant's deposit. But he wanted to pursue a claim for missing and damaged items and rent recovery. As cover was available for that (subject to the other terms and conditions of the policy) I think ARAG correctly referred that to a panel firm so it could consider whether the claim had reasonable prospects of success as required by the policy.

That firm confirmed at the start of November it did. As Mr P was dissatisfied with the actions of that firm ARAG agreed the case could then be progressed by a different firm. I think that was a pragmatic way of dealing with Mr P's concerns. And as our investigator said any issues Mr P has about the actions of the panel firms appointed to progress his claim are ones he'd need to raise with them; they aren't something ARAG is responsible for.

I would nevertheless expect ARAG to take some action in response to any concerns Mr P raised with it about the actions of the panel firm. But I think it acted reasonably in this case; it sought appropriate updates from the panel firm on progress and ensured conduct issues he raised were addressed. Nor do I think it was unreasonable that when the panel firm advised counsel's opinion was required ARAG asked it to obtain quotes from more than one counsel before agreeing funding for this.

However, it's also clear there were some delays by ARAG. But those generally relate to its responses to Mr P. I don't think they've significantly impacted the progress of his underlying claim which was referred to a panel firm to progress within a reasonable timeframe. So even if recovery against the tenant is now more difficult than it otherwise would have been I don't think that's something ARAG is responsible for. But I do accept what it got wrong will have caused Mr P some avoidable distress and inconvenience. I know this was a difficult time for him and I've taken into account the impact of the underlying health condition he's referenced. However, having done so I think the compensation ARAG has already offered of £250 does enough to recognise the impact on Mr P of what it got wrong.

My final decision

ARAG Legal Expenses Insurance Company Limited has already made an offer to pay £250 to settle the complaint and I think this offer is fair in all of the circumstances. So my decision is that ARAG should pay Mr P £250 (if it hasn't already done so).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 9 March 2026.

James Park
Ombudsman