

complaint

Mr C complains that Watford Insurance Company Europe Limited declined his claim and cancelled his motor insurance policy from the start (voided it) because of misrepresentation. He wants the claim paid.

background

The named driver on Mr C's policy was in a car accident and his car was deemed to be beyond economical repair. Watford Insurance then found that Mr C had obtained his car as part of a leasing agreement and the registered keeper was a finance company. But Mr C had told Watford Insurance that he was the car's registered keeper and legal owner. Watford Insurance said this was misrepresentation and so it voided the policy, declined the claim, and retained Mr C's premiums.

Our investigator recommended that the complaint should be upheld in part. He thought Watford Insurance had asked clear questions about the car's owner and keeper. The finance company was recorded on the registration document as the car's registered keeper. He thought Watford Insurance wouldn't have provided cover if it had known this. And so he thought it had fairly voided the policy and declined the claim. But he thought Mr C's error had been careless rather than deliberate. And so he thought Watford Insurance should refund his premiums.

Watford Insurance replied that it thought Mr C had recklessly misrepresented his information. It said it should also retain the premiums as it had paid out other driver's claims.

my findings

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

The investigator has already explained our approach to complaints related to misrepresentation and the relevant law. In short, where a complaint arises from misrepresentation of information important to an insurer, we look to see that it asked a clear question when the policy was taken out. We check that the information given would affect whether a policy was offered. And we check whether the informant has acted carelessly, deliberately or recklessly in making the misrepresentation.

Mr C bought his policy through a comparison site. I've looked at the on-line journey and the questions he was asked. I think he was asked a clear question about whether he was the car's registered keeper and legal owner. He was provided with guidance about where to find this information. But Mr C answered incorrectly that he was the car's keeper and owner, when the finance company is listed as the registered keeper on the registration document.

Watford Insurance has provided us with evidence from its underwriting guidelines showing that it wouldn't have offered cover if it had known the correct information. So I think Watford Insurance was entitled to void the policy and decline the claim under the relevant legislation.

What remains for me to decide is whether Mr C acted carelessly, deliberately or recklessly when he provided the incorrect information.

From what I can see, Mr C thought he was the car's owner and keeper. He told us that he thought he was the owner on the log book, that is, the V5 registration document. But I think if he'd checked, then he'd have seen that the lease company was in fact recorded as the registered keeper. So I think Mr C didn't take reasonable care not to make a misrepresentation.

I don't think Watford Insurance has shown that Mr C acted recklessly or deliberately in misrepresenting this information. I think Mr C acted carelessly. So I think it's fair and reasonable that, under the relevant legislation, Watford Insurance should return his premium that I can see he paid in full for the year.

my final decision

My final decision is that I uphold this complaint in part. I require Watford Insurance Company Europe Limited to refund Mr C the premium he paid for his voided policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 March 2019.

Phillip Berechree
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