

## **complaint**

Mrs G is unhappy with the service, decisions made and mistakes following a water damage claim at her tenanted property. The policy was provided by AXA Insurance UK Plc.

## **background**

Mrs G made a claim when damage was discovered at a property that she rents out to tenants. The damage was found when tenants were moving out and new tenants were moving in on the same day. Initially AXA accepted the claim but later when costs got more expensive and loss adjusters were appointed the claim was turned down. AXA said the damage was historic and happened before the policy had started. Mrs G said that she could have had the repairs done and the property rented out again very quickly if she hadn't been waiting on AXA to get it right. She felt that as AXA had originally accepted the claim it was then legally obliged to deal with the claim (estoppel) and that it now couldn't go back on the agreement to deal with the claim. Mrs G brought her complaint to this service.

Our adjudicator upheld the complaint. He accepted AXA could have dealt with matters more quickly and agreed some of Mrs G's points. Subject to evidence he agreed a total reimbursement of twelve weeks and three days loss of rental income. Our adjudicator also said AXA should pay 50% of the loss of rental income for a further seventeen weeks and five days. He also confirmed council tax costs for the same periods as shown above should be paid and all should be subject to 8% simple interest per year from date of loss to date of settlement. AXA agreed to pay this but Mrs G asked for her complaint to be passed on to an ombudsman for a final decision.

## **my findings**

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

I think the key point Mrs G has made throughout is that AXA got its decision wrong at the outset and this created knock on problems for her. This sums up her point about the service provided by AXA. Although AXA did what it felt was right when it originally accepted the claim it should have moved more quickly to clarify the situation when it became clear that the damage had happened before the policy had started. Mrs G said that she made it clear to AXA about the wet room in an email which it overlooked. Mrs G said the impact was a large financial loss, issues with her health and the distress and inconvenience caused.

Mrs G said that the problems did begin right at the point when quotations for the water damage were being sought. The difference between the quotes was huge – one was for just over £500 and the other was close to £5,000. This should have triggered further discussion at that point and Mrs G has started a second complaint about her broker due to these issues. It appears AXA had agreed to the lower estimate work going ahead. It was some time later when the work was about to be started that it became clear it was a far more extensive job. Two more experts then provided quotations showing costs above £6,000. As the cost was continuing to grow AXA appointed loss adjusters. It does appear that other parties were involved in the discussions and administration process throughout. This included the brokers and the managing agents.

When the loss adjusters reported back on the claim it said cover didn't apply and the claim wouldn't be paid as damage had occurred prior to the policy starting. Mrs G doesn't dispute

this but she felt that AXA should have been able to do this within a few weeks and not after several months. She felt when she provided her email about the wet room this should have been the key date. Mrs G also noted that no claim form was ever completed and this should have been essential. I have no reason to dispute the dates but I do find that claim forms seem to be rarely used these days. The email was sent in December 2013 and if the work had gone ahead it would most likely have concluded in January 2014. As at this point it was clear that extra works were needed other parties got more involved and I find AXA were only partly responsible for the delays. I don't see any reason to deviate from the periods and amounts applied by our adjudicator. I find that the loss of rent breakdown noted is a fair outcome in this case.

I do accept that AXA took too long to rectify the initial mistake of agreeing to deal with the claim. But I don't accept that by at first agreeing to deal with the claim that AXA must now pay out for the claim anyway. I understand that to Mrs G this would seem right but an insurer doesn't have to deal with a claim if it isn't covered by the policy. However, it's possible that AXA could have to deal with any knock on impact the errors caused to Mrs G. Mrs G has raised the issue of estoppel but not gone on to point out specifically why estoppel should and has to apply to her complaint.

In terms of the impact on Mrs G I think this would have been significant. I note that AXA offered £500 in compensation from the outset as it recognised it had caused distress and inconvenience to Mrs G. Mrs G did have to suffer delays and a loss of income which is undoubtedly distressing. I find this figure to be reasonable in terms of the poor service, mistakes and delays Mrs G encountered. I know Mrs G said that her health had suffered due to the problems with her claim but I have nothing that shows me specifically that the two issues are connected.

### **my final decision**

I uphold this complaint.

I require AXA Insurance UK Plc to:

- pay the total rent lost for a period of twelve weeks and three days;
- pay 50% of the rent lost for a further seventeen weeks and five days;
- pay the council tax costs for the same periods at the same percentages;
- add 8% simple interest per year from the date of loss to the date of settlement, less any tax properly deductible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 13 November 2015.

John Quinlan  
**ombudsman**