

## **complaint**

Mr C complains about Best Deal Insurance Services Limited's refusal to cover the cost of additional repairs on his rental property or pay for his loss of rent.

## **background**

Mr C rented out a property. When his tenants moved out, he noted they had damaged the kitchen. As Mr C held landlord insurance with an insurer ("A"), he made a claim for the damage. This was refused as Mr C had not taken out malicious damage cover with A.

Mr C complained to Best Deal as it had sold him the policy with A in its capacity as his broker. He said that Best Deal should have made him aware that he could have taken out malicious damage cover. Best Deal accepted his complaint and agreed to step into the shoes of the insurer and cover the damage. It therefore agreed to pay for the repair costs, as well as loss of rent as the property could not be let until the repairs were completed. Mr C signed a form confirming that he agreed to Best Deal's offer in full and final settlement of his complaint/claim.

Whilst the repairs to the kitchen were being carried out, Mr C's builder discovered further damage to the boiler and the toilet which had not previously been noticed. Mr C therefore asked Best Deal to cover the cost of repairing this damage, as well as further loss of rent as he was still unable to let the property because of the damage.

Best Deal refused to cover the cost of the additional repairs or loss of rent. It said that Mr C should have noticed the damage when he made the initial claim, and that he had accepted its previous offer in full and final settlement of his complaint/claim. Unhappy with this response, Mr C brought a complaint to this service.

Our adjudicator initially didn't recommend that the complaint be upheld, but he said that if Mr C could provide evidence that the boiler and toilet were maliciously damaged, then this would need to be sent to Best Deal for it to look at.

Mr C was able to provide further evidence which he sent to Best Deal. But Best Deal still refused to increase its earlier offer. Mr C therefore brought a new complaint to this service.

Our adjudicator recommended the complaint be upheld. She thought it wasn't unusual that Mr C's builder had only discovered the additional damage once repair work had begun, and since Best Deal had previously agreed to step into the shoes of the insurer, she thought it should accept the claim for the damage to the boiler and toilet. She also thought Best Deal should compensate Mr C for the loss of rent. Finally, she recommended that it pay Mr C £200 compensation for the handling of the matter.

Best Deal partly accepted the adjudicator's recommendations. It said it would cover the cost of repairing the boiler and toilet. But it noted that Mr C had cancelled his policy with insurer A in October 2012; therefore it said that it should not be liable to pay for loss of rent after this time, as the insurer wouldn't have done so.

Our adjudicator remained of the opinion that Best Deal should cover the loss of rent, therefore the matter has been passed to me.

## my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I am pleased that Best Deal has agreed to cover the cost of repairing the boiler and toilet, and I understand it has now paid for this and Mr C has had the relevant repairs carried out.

The remaining issue for me to decide is whether or not Best Deal should compensate Mr C for his loss of rent.

The policy with insurer A explains that if the policyholder holds malicious damage cover, it will cover any accidental damage or malicious damage caused by tenants. It then says:

*“We also provide cover for:*

*A. Loss of rent or alternative accommodation*

*During the period the home is made uninhabitable by any cause covered under this section, we will at our option pay for either:*

- i) loss of rent that is no longer payable to you; or*
- ii) the cost of comparable alternative accommodation for the tenant(s) who occupied the home at the time of the incident that gave rise to the damage.”*

I understand that Mr C cancelled his policy with insurer A in October 2012. It seems to me that it wasn't unreasonable for Mr C to do so, given that the policy didn't provide him with the level of cover that he required. I don't know if Mr C has since obtained another insurance policy with malicious damage cover, but that isn't relevant to this matter.

Best Deal agreed with Mr C that the policy with insurer A hadn't been sold correctly. It told Mr C that it would step into the shoes of the insurer and deal with his claim as if he had taken out and paid for malicious damage cover. It didn't tell him that he would need to maintain his basic landlord's insurance cover with A for it to do so. It therefore seems unreasonable for Best Deal to now refuse to cover the claim because Mr C no longer holds the underlying landlords insurance cover which, in any event, didn't include malicious damage cover.

That being the case, I think that Best Deal's offer to step inside the shoes of the insurer for the purposes of this claim means that it should pay for any loss of rent (subject to insurer A's remaining policy terms) that has been caused by the property being uninhabitable as a result of the damage.

As I understand it, before the boiler and toilet were repaired, there was running cold water to the property, but there was no hot water. Further, there was only one toilet in the property but because of the damage, this was not usable. I think the damage made the property uninhabitable before the repairs were done. So Best Deal should accept Mr C's claim for loss of rent for the relevant period that the property was uninhabitable.

I agree with the adjudicator that Mr C was likely inconvenienced by Best Deal's handling of the matter, and in the circumstances I think £200 is a reasonable amount of compensation.

I note that Mr C asked that Best Deal provide it with details of its professional indemnity insurers so that he can make a subject access request to it. I don't think that Best Deal should provide Mr C with this information as any professional indemnity claim made to its

insurers was between Best Deal and its insurers. But Mr C is able to make a subject access request to Best Deal if he wishes and any information to which he is entitled would be provided to him at that time.

**my final decision**

For the reasons set out above, my final decision is that I uphold this complaint. I require Best Deal Insurance Services Limited to accept Mr C's claim for loss of rent under insurer A's policy terms and conditions. Interest should be added at the rate of 8% simple from the date of loss to the date of settlement.

I further require Best Deal Insurance Services Limited to pay Mr C £200 compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to let me know whether he accepts or rejects my decision before 12 June 2015.

Chantelle Hurn  
**ombudsman**