

## **complaint**

Mr R complains that Inter Partner Assistance SA ("IPA") has rejected a claim for a boiler repair under his home emergency insurance policy.

## **background**

Mr R owns a rental property and had a home emergency insurance policy to deal with any problems his tenant had. When the boiler at the property failed, his letting agents arranged for IPA to repair it. Its engineer attended and did a repair but the boiler failed again the same day. Mr R says that when he contacted IPA's complaints line, he was told that there was a serious problem with the boiler's flue. It was dangerous, and couldn't be worked on.

IPA says that when its engineer attended, he found that the boiler had been poorly maintained and that its installation was faulty. It says he therefore refused to carry out any work on the boiler and refused to re-attend because of the poor installation. IPA paid for another firm of engineers to attend to provide a second opinion. It reported that the flue didn't comply with Building Regulations because there was less than 600mm between the flue and the boundary of Mr R's property. The flue discharged onto the neighbouring property. It said that gas regulations prevented any engineer from working on an appliance which contravened regulations in this way. IPA therefore rejected Mr R's complaint. As Mr R couldn't get IPA to do any repairs, he felt he had no option but to buy a new boiler.

Mr R referred his complaint to this service. Our adjudicator considered that IPA hadn't acted fairly towards Mr R as in these circumstances he'd never have been able to make a claim under his policy. She recommended that IPA refund to Mr R all premiums since the start of the policy, but said it could deduct the cost of visits it had made if it could provide evidence of these.

IPA doesn't agree with the adjudicator's conclusion so the matter's been passed to me to make a 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'm going to uphold Mr R's complaint for the following reasons.

I made further enquiries of both Mr R and IPA. It appears that Mr R has had his policy with IPA since August 2009. IPA says it repaired his boiler in March and September 2011. Mr R's tenant has said that IPA also undertook a repair in 2013 and on that occasion IPA made a payment of £200 for late attendance.

IPA says that Building Regulations were changed in 2013 and because of these changes Mr R's flue became non-compliant. It says that any claim that Mr R made after that time would've been declined. It's not clear whether the boiler repair undertaken in 2013 was before Buildings Regulations were changed that year, but as IPA undertook the repair, I think it can be assumed that the change in Building Regulations occurred after the repair.

Mr R's own boiler engineers serviced his boiler some four months prior to the fault occurring in 2016 and provided a gas safe certificate, so possibly they weren't aware of the change in Building Regulations. Mr R would've been unaware that his boiler was now illegally installed. Mr R has since replaced his boiler and the flue has been relocated so it now complies with Building Regulations. He says he wasn't sure what else to do as he didn't want his tenants to be without hot water and heating.

Mr R's records show that in each of years 2013, 2014 and 2015 he paid a premium of £99 for his policy with IPA. So in each of those years, Mr R was paying for a policy that wouldn't have covered him for any boiler repair. But his policy does cover a number of other home emergency situations such as plumbing and drainage, and gas, electrical and toilet problems. So even if Mr R wouldn't have been able to claim under his policy for any boiler problems, the policy was still useful to him.

I have to consider whether IPA has acted fairly and reasonably in dealing with Mr R's claim. I don't think IPA is at fault for not informing Mr R in 2013 that the introduction of new Building Regulations meant that it could no longer cover his boiler. When his boiler broke down in 2016 Mr R was provided with a copy of the independent engineer's report which explained the problem with his flue. So Mr R could've investigated how to achieve compliance with Building Regulations and then had his existing boiler repaired rather than buying a new one, but he proceeded to buy a new one. But I think that when he did make a claim in 2016, and when IPA became aware that it couldn't work on his boiler, it could've offered to give him a refund of part of his premium to reflect the cover he hadn't been getting since 2013.

So I think a fair outcome would be for IPA to pay Mr R a sum equal to half the premiums he's paid in 2013, 2014 and 2015.

### **my final decision**

My final decision is that I uphold Mr R's complaint and require Inter Partner Assistance SA to pay Mr R £148.50, being a sum equal to half of the premiums he paid in 2013, 2014 and 2015.

I also require Inter Partner Assistance SA to pay interest at the simple rate of 8% a year from the date Mr R paid each of these premiums to the date it makes payment. HM Revenue & Customs requires Inter Partner Assistance SA to take off tax from this interest. Inter Partner Assistance SA must give Mr R a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 8 August 2016.

Nigel Bremner  
**ombudsman**