

complaint

Miss M complains that Eridge Underwriting Agency Ltd cancelled her motor insurance policy and declined her claim.

background

Miss M made a claim following the total loss of her car. Eridge then found that she wasn't the car's registered keeper and legal owner. It said if it had known this, it wouldn't have offered a policy so it cancelled Miss M's policy, declined her claim and retained her premiums.

Our investigator recommended that the complaint should be upheld in part. He thought Eridge was entitled to cancel the policy and decline the claim under the relevant legislation as Miss M had misrepresented the registered keeper of the car. He thought Miss M and the car's owner weren't in an acceptable relationship as defined by the policy, so cover wouldn't apply. But he thought Miss M's misrepresentation had been careless and so Eridge should refund her premiums with interest.

Eridge agreed to do this. Miss M replied that she wanted an ombudsman's review, so her complaint has come to me 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.

Where a complaint arises from misrepresentation of information important to an insurer, we take into account the relevant legislation. 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 or deliberately in making the misrepresentation.

I've listened to the call Miss M's father made to a broker to take out the policy on her behalf. The agent confirmed that a quote had been obtained from an online comparison site. I've looked at this site and I can see that Miss M would have been asked if she was the car's registered keeper and legal owner. The broker ran through the details that had been provided including that Miss M was to be the car's registered owner and keeper. This was then stated on the policy's Statement of Fact that Miss M was asked to check for accuracy.

But I can see from the car's registration documents and its finance agreement that the car's legal owner at the time the policy was taken out was a finance company and the registered keeper was Miss M's then fiancé. So I think Miss M was asked a clear question about the car's ownership and registered keeper and she answered this incorrectly.

Eridge has provided us with its underwriting criteria. Within this are details of what Eridge will consider to be an acceptable relationship between the proposer and owner and registered keeper of the car. The finance company is deemed to be an acceptable relationship to the proposer, so this wouldn't be a reason for Eridge to refuse cover.

However, an acceptable relationship between the proposer and registered keeper would be spouse, civil partner, common law spouse and common law partner. Miss M said she and her fiancé were common law partners at the time. But I haven't seen evidence that they were living together at the time the policy was taken out. In fact, the address given on the car's registration document and finance agreement is different to Miss M's.

So I think there isn't evidence that Miss M and the car's registered keeper met the acceptable relationship criteria for cover to be provided at the time the policy was taken out. So I think Eridge has shown that it wouldn't have offered cover if Miss M had answered the question about the car's registered keeper correctly. And so I think, under the relevant legislation, it was entitled to cancel the policy and decline the claim.

Eridge has agreed that this misrepresentation was careless rather than deliberate. I think that's fair and reasonable in the circumstances. So I think it should refund Miss M's premiums. As she's been without her money for some time, I think it should add interest to this refund.

my final decision

My final decision is that I uphold this complaint in part. I require Eridge Underwriting Agency Ltd to refund Miss M's premiums, adding interest at 8% simple per annum from the date of payment to the date of settlement, as it's already agreed to do. HM Revenue & Customs requires Eridge to withhold income tax from that interest. It must give Miss M a certificate showing how much it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 25 March 2020.

Phillip Berechree
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