

complaint

The estate of Mr P, and Mrs P complain about the offer Europäische Reiseversicherung AG ('ERV') has made to settle a claim under a travel insurance policy.

background

Mr and Mrs P held a travel insurance policy, underwritten by ERV.

Sadly, Mr P was diagnosed with terminal cancer in late February 2017. Mr P's doctor advised him he wasn't fit to travel on an upcoming holiday he'd booked with Mrs P.

ERV was contacted on behalf of Mrs P, to say one of the intended travellers had been taken into hospital with a terminal illness, and to ask what the procedure was.

The holiday was cancelled in mid-March 2017 and, unfortunately, Mr P passed away a few days later.

The tour operator refunded Mrs P some of the money and she made a claim to ERV for the remaining amount. ERV said if the trip had been cancelled when Mr P was admitted to hospital – or when Mr P had been given a diagnosis – Mrs P would only have been charged for the holiday deposit. ERV said, as Mrs P hadn't cancelled until later, there were now increased cancellation costs. So, it said all it would pay was the lower amount which Mrs P would've had to pay if the trip had been cancelled in February 2017.

Unhappy, Mrs P brought her complaint to this service.

Our investigator upheld the complaint. In response, ERV provided a number of telephone calls relating to the sale of the policy, and to the claim.

I sent my provisional decision about this case in November 2017. I said;

'I'm sorry to hear about the situation that led to this claim and I'd like to pass my condolences to Mrs P and her family for their loss.

I've listened to a call with ERV's customer services line which took place around the time of Mr P's diagnosis. The caller was unable to give a policy number but was given the telephone number of ERV's claims line to discuss the details of how to make a claim.

Mrs P's daughter says she then contacted ERV herself to explain the situation and was thanked for letting it know, but was never told the holiday should be cancelled at that point.

ERV hasn't been able to locate any calls to its claims line about the policy before 27 March 2017. But I can't see any reason to doubt what Mrs P's daughter has told us – and I think, if she'd been told to cancel the holiday in February 2017, it's likely she would've done so.

The terms and conditions of Mrs P's policy require the policyholder to notify their travel agent immediately. And, because Mrs P didn't do this, the value of the claim has now increased.

I appreciate the cancellation charges for the holiday formed part of an agreement between the tour operator and Mr and Mrs P, so ERV wouldn't have had any knowledge of them. But,

ERV will clearly be aware of the importance of cancelling a trip as soon as possible. And, as the insurer, ERV has a greater knowledge of its terms and conditions and how the claims process works than its policyholders.

Given the circumstances Mrs P was in, I think it would've been reasonable for ERV to have given her more detailed advice about how the claims process worked – and I think it would've been fair for it to tell her she needed to cancel the holiday straight away.'

So, my provisional decision was that I intended to uphold the complaint.

Mrs P accepted my provisional decision. ERV didn't accept, and responded to say it doesn't think the telephone call between Mrs P's daughter and ERV happened – and if it had, she'd have been told to cancel the holiday.

I contacted ERV and asked it to check its records for any calls from a specific telephone number on specific dates. I also asked again for a copy of their contact notes about the policy. ERV didn't respond.

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've taken into account what ERV has said. I understand every call is recorded, and it can't delete call recordings. But, ERV hasn't confirmed whether calls from the specific telephone number Mrs P's daughter says she'd have telephoned from have been searched for. And ERV hasn't sent us any notes from its systems showing details of the telephone contact about this policy.

Overall, based on the evidence I've been given, I do think it's likely a telephone conversation between Mrs P's daughter and ERV took place.

So, I won't be changing my provisional decision.

my final decision

My final decision is that I uphold this complaint.

Europäische Reiseversicherung AG must pay the estate of Mr P, and Mrs P's cancellation claim in line with the remaining terms and conditions of the policy, and add interest at 8% simple per annum from the date of claim until the date settlement is paid¹.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr P, and Mrs P to accept or reject my decision before 5 February 2018.

Leah Nagle
ombudsman

¹ If Europäische Reiseversicherung AG considers that it's required by HM Revenue & Customs to

take off income tax from that interest, it should tell the estate of Mr P, and Mrs P how much it's taken off. It should also give the estate of Mr P, and Mrs P a certificate showing this, if asked, so tax can be reclaimed from HM Revenue & Customs if appropriate.