

complaint

Mr J's complaint relates to the damage caused to his boiler by an engineer appointed by Amtrust International Underwriters Ltd. Mr J believes this damage caused his boiler to need replacing and left him for ten days in total without heating and hot water.

The circumstances and background to this complaint were set out in my provisional decision in September 2014, as follows:

“background

Mr J contacted Amtrust in February 2013 as he had a fault on his boiler.

The Amtrust engineers failed to attend at the property for four days and then during this delayed visit, the engineer diagnosed that parts were needed. These parts would need to be ordered.

Mr J then waited a further five days for an engineer to re-attend and fit a new heat exchanger.

Following this visit, Mr J explained that there was a dripping leak from the heat exchanger when the engineer was present, but he was told by the engineer that this is normal and that the boiler will do this when a new heat exchanger has been fitted. Amtrust concluded that this was linked with condensation.

The leak then worsened over the next week and Mr J contacted a private engineer as he had no faith in Amtrust.

Mr J's wife is disabled and there were children living at the property during the claim. The temperature for that time of year was low and Mr J explained that he could not wait for Amtrust to re-attend and experience delays again.

When Mr J's private engineer attended, he confirmed that the heat exchanger had been fitted incorrectly and that this had caused damage to the boiler. The boiler had to be replaced and Mr J paid for this in April 2013.

Mr J sent in evidence to confirm that the heat exchanger had been fitted incorrectly by Amtrust and that this caused the boiler to need replacing.

Amtrust responded and confirmed that it did not believe the heat exchanger was fitted incorrectly and that this would have showed up a lot quicker than when Mr J noticed the leak. It sent Mr J £50 compensation for the time spent without heating and hot water.

The adjudicator who was allocated Mr J's complaint believed that Mr J's private engineer had provided persuasive evidence to confirm that the heat exchanger was fitted incorrectly. Further to this Amtrust had only speculated about the cause of the leak. She recommended for Amtrust to increase the compensation to £150 in total and for it to cover the cost of the replacement boiler.

Amtrust refused to cover the cost of the replacement boiler, but agreed to increase the compensation to £150 in total (minus amounts already waived or paid).

Because our service's adjudicator remained of the opinion that Amtrust should cover the cost of the replacement boiler, the case has been passed to me.

my provisional findings

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

Looking firstly at the compensation recommended and agreed by Amtrust for the days Mr J spent without heating and hot water, I am satisfied that this is suitable recompense. Amtrust should have attended at Mr J's property earlier than four days for the initial visit and then it took a further five days to retrieve the part.

Mr J's wife is disabled and there were young children in the property, so an amount of £150 is fair and reasonable given all personal circumstances for Mr J.

With regard to the replacement boiler that the adjudicator recommended for Amtrust to reimburse, I am not persuaded that Amtrust is liable for this cost. I will explain why.

During my review of the case, I requested the adjudicator to obtain further evidence from Mr J's private engineer. The reason I did this is because Mr J's private engineer had not explained what damage had been caused to the boiler due to Amtrust's failure to fit the heat exchanger correctly, nor had he confirmed why the boiler could not be repaired.

Mr J was unable to provide this evidence to our service, which in turn meant that there was not enough evidence to confidently say that the boiler could not be repaired either by fitting a new heat exchanger or refitting the existing one correctly, nor had it been shown how Amtrust had fitted the heat exchanger incorrectly.

I appreciate that Mr J will be disappointed with the change in outcome to his case, however with the lack of evidence provided to me, I am unable to recommend for Amtrust to cover the cost of the replacement boiler.

my provisional decision

My provisional decision is that Amtrust International Underwriters Ltd should send Mr J a further £51.35, which will bring the total compensation paid to £150. I make no further recommendations against Amtrust."

developments

In response to my provisional decision, Mr J provided a report from his private engineer dated 29 September 2014. The report states:

"The damage to the boiler was due to the heat exchanger not being fitted correctly.... The build-up of water also affected electrical components within and below the boiler. If Mr [J] had continued to use the boiler in its current state, then this would have posed a serious health risk."

"It would not have been cost effective to repair the boiler as the heat exchanger and the electrical components would have needed to be replaced."

"In my professional opinion the heat exchanger was the incorrect part and not the right size, therefore was not installed correctly causing damage to the boiler."

Amtrust considered the report and made the following comments:

- The report was written almost 18 months after the boiler was replaced and, similar to previous reports provided, contains a lack of detail as to which electrical components were affected;
- The report confirms that Mr J's boiler was in fact operational;
- Mr J's private engineer's comments can never be verified as Amtrust was not given the opportunity to assess the work completed in February 2013;
- It is unlikely that its two gas safe registered engineers would have failed to identify that an incorrect component was being fitted;
- If the heat exchanger was the incorrect component then it is likely to have leaked immediately after being fitted;
- Replacing any damaged electrical components would have cost considerably less than fitting a new boiler.

Mr J has responded to Amtrust's comments as follows:

- Amtrust has no grounds upon which to question the engineers report provided;
- Mr J had no choice but to continue using his boiler in its current state as he has a disabled wife and young children living with him. When he was then informed that the boiler was a health risk, he could not continue to use it;
- Amtrust was given ample opportunity to assess the damage;
- Amtrust's engineer experienced difficulties installing the heat exchanger – and only one engineer was on site;
- Mr J did notice the leak immediately and mentioned it to the engineer before he left. Mr J also contacted Amtrust but was told he no longer held a contract;

my findings

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

Amtrust has raised what I consider to be valid queries about certain aspects of Mr J's private engineer's report – in particular regarding the electrical components which were damaged and the cost of replacing these.

It is unfortunate that the cancellation of the direct debit led to confusion surrounding the status of Mr J's policy and, although Amtrust was given the opportunity to re-attend, its failure to do so was not unreasonable in the particular circumstances of the case.

Having taken all of the information into account, I am not persuaded that there is sufficient evidence upon which I could reasonably conclude that Amtrust should pay for a replacement boiler.

my final decision

My final decision is that Amtrust International Underwriters Ltd should send Mr J a further £51.35, which will bring the total compensation paid to £150.

I make no further award against Amtrust International Underwriters Ltd.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr J to accept or reject my decision before 9 December 2014.

Christopher Tilson
ombudsman