

### **complaint**

Mr E complains that Tradewise Insurance Company Limited declined his claim, under his commercial insurance policy, as the theft of his vehicle did not take place as described.

### **our initial conclusions**

Our adjudicator considered that this complaint should be upheld. She explained that in order for Tradewise to decline the claim it had to show that an exclusion clause applied or that Mr E was implicit in the theft. As it produced insufficient evidence to show this, she upheld the complaint. As Tradewise did not agree the matter has been escalated to me for a final decision.

### **my final decision**

To decide what is fair and reasonable in this complaint, I have considered everything that Mr E and Tradewise have provided. Although Tradewise had reason to question the claim and undertook reasonable enquiries, I am not persuaded that it has provided sufficient evidence to show that the theft did not take place as described by Mr E or that he was somehow involved in the theft. It is perfectly plausible that Mr E left his vehicle near a relative's house as he thought it was safer, as he was familiar with the area, than leaving it next to the public house he was visiting with the intention of collecting it the next day. Upon return he realised it was stolen and reported the theft to the police and Tradewise. The police have no concerns with the theft and the vehicle was found burnt out next day.

Despite Tradewise's concerns it has not produced any evidence to confirm that the theft did not take place as described. Concerns are not sufficient to decline a claim, particularly as it is known that thieves can steal vehicles without a key, using certain types of equipment, quickly and easily. It is more than possible that the vehicle was targeted for criminal use or for any equipment held within or for parts. As Tradewise has failed to demonstrate that Mr E was somehow involved or the theft did not take place as reported to the police I am not persuaded by its argument.

**It therefore follows that my final decision is that I uphold this complaint and order Tradewise Insurance Company Limited to settle Mr E's claim in accordance with the policy terms and conditions and pay additional compensation (see overleaf for further details).**

**Under the rules of the Financial Ombudsman Service, I am required to ask Mr E to accept or reject my decision before 23 June 2014.**

*Colin Keegan*  
*ombudsman at the Financial Ombudsman Service*

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

#### **ombudsman notes**

For the reasons explained above and by the adjudicator, I have decided that the complaint should be upheld, and therefore, Tradewise should settle Mr E's claim in accordance with the remaining terms and conditions. If Tradewise settles the claim in cash it should pay interest on this amount at our usual rate of 8% per annum simple from the date of the theft to the date of actual payment.

I also require Tradewise to pay £250 compensation in respect of the distress and inconvenience caused. It was clearly distressing and inconvenient for Mr E to have his claim rejected. I am also satisfied that Tradewise should refund any lost earnings or costs that Mr E can show he has suffered as result of Tradewise declining the claim.

#### **what is a final decision?**

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

#### **what happens next?**

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.