

complaint

Mr S complains that Tradewise Insurance Company Limited rejected a theft claim under his Motor Trade insurance policy and cancelled the policy.

background

Mr S arranged his motor trade policy through his broker. His vehicle was subsequently stolen and he claimed on the policy. When investigating the claim, Tradewise found that Mr S could not substantiate that he was actually involved in the motor trade. It therefore cancelled the policy and kept the whole premium. In addition, it rejected the claim because the vehicle was over 25 years old, and the policy specifically restricted cover for such vehicles to Third Party cover.

Mr S says that when he was taking out the policy he was not told about the restriction regarding vehicles which were over 25 years old. The adjudicator advised Mr S that any complaints he had about the advice and information he received when he took out the policy should be addressed to his broker. However, with regard to Tradewise's actions, he was of the opinion that the policy should have been voided instead of cancelled, and that Tradewise should refund the premium in full.

Tradewise disagreed, but it did offer to make a pro rata refund (plus interest) taking into account time on cover. Mr S did not accept the offer. Tradewise, however, maintains that it was not fair to make a full refund to Mr S when its documentation clearly explains what is and is not covered by the policy.

The matter has therefore been referred to me to decide.

my findings

To decide what is fair and reasonable in this complaint, I have considered everything that Mr S and Tradewise have submitted.

Mr S has not disputed that his vehicle is over 25 years old. The exclusion is set out in the Statement of Fact for the policy. There is also a question in the Statement which asks whether Mr S handled or owned vehicles of that age. The answer which appears is "No". So, on the basis of the available information, it appears reasonable that Tradewise rejected the claim.

Mr S says, however, that he was never told about that exclusion. I have not seen evidence dealing specifically with the steps taken or the questions asked of Mr S when the policy was taken out. However, because Mr S was dealing with the broker at that stage, and not Tradewise, that is a matter which he could take up with the broker should he wish. Nothing in this decision should be taken to apply to any complaint Mr S may decide to make against the broker.

Tradewise has said that it would still have provided cover for Mr S's vehicle if it had known its age, but only the Third Party Cover as specified in the policy. It argues that for that reason, the appropriate action to take was to cancel the policy, rather than void it. (By cancelling, Tradewise was treating the policy as valid and in place until the date of cancellation and if there had been a third party claim up to the point of cancellation, it would have been dealt with in accordance with the terms and conditions of the policy. If, on the other hand, the policy was voided, it would be treated as never having been in place at all and no cover, even for third party claims, would be available.)

However, Tradewise says it cancelled the policy as Mr S was unable to supply evidence to show he was actively involved in the motor trade. The policy was one specifically for motor traders, and the Statement of Fact shows Mr S as being in the business of "Vehicle Purchase and Resale" although I have not seen anything which confirms that is correct (either at the time the policy commenced, or subsequently). In the absence of any such evidence, I am not persuaded that Mr S is (or was, at the relevant time) involved in the motor trade.

So, although Tradewise says the cancellation was not because of any "material non-disclosure", the available evidence suggests that, on balance, the information given to Tradewise when the policy commenced (both as to the age of the vehicle and Mr S's involvement in the motor trade) was incorrect. I also consider that if Tradewise had known Mr S was not a motor trader when the policy was taken out, it would not have offered the cover it did. Consistent with our approach to complaints regarding non-disclosure, I therefore consider that it is fair and reasonable, under the circumstances of the case, for the full premium to be refunded, together with interest, as if the policy had been voided rather than cancelled.

While I sympathise with Mr S and appreciate that he has been inconvenienced and upset by Tradewise's handling of his claim, I do not consider it is sufficient to justify an award of compensation.

my final decision

For the reasons above, it is my final decision that I partially uphold this complaint.

I require Tradewise Insurance Company Limited to:

- refund the premium in full
- pay Mr S 8% simple interest per annum on the amount of the premium from the date it was paid to the date of settlement

I make no other award.

Helen Moya
ombudsman