

complaint

Mr R has complained that U K Insurance Limited (UKI) has turned down his claim under his motor insurance policy following the theft of his car.

background

Mr R bought a car and it was stolen soon afterwards. He claimed under his policy and UKI investigated. They established that the car Mr R bought was a 'cloned car'. This means it was a car that had been made to look like another one with the same registration and identification number. They declined Mr R's claim on the basis the car they insured wasn't stolen.

Mr R complained to us. Initially our investigator said that UKI was entitled to decline Mr R's claim. But he then reconsidered and said it should pay the claim because Mr R bought the car in good faith thinking it was genuine. UKI disagree, they have said Mr R doesn't have an insurable interest in the car he bought as it was a cloned car. And it seems they don't think he bought it in good faith, as he didn't get a receipt despite paying £9,000 for it.

I issued a provisional decision on 1 December explaining why I didn't think UKI was obliged to pay Mr R's claim. I said, unfortunately for him, he didn't have an insurable interest in the car he bought as it was a cloned car. And I went on to explain that I didn't think it was appropriate for me to make UKI pay his claim as he hadn't taken reasonable steps when he bought it to make sure it was genuine and he hadn't made his claim in good faith. I said I didn't think he'd made his claim in good faith because he'd suggested his car didn't have any marks or scratches when it was stolen, but had since said it had been keyed just before it was stolen, and the scratch from this was still visible.

I gave both Mr R and UKI until 15 December to respond to my provisional decision. And UKI has said it doesn't have anything to add.

Mr R has responded explaining what happened when he bought the car. And he's also explained why he said it had no marks or scratches when he made his claim.

Mr R's said when he bought the car he thought the seller and another man with him were from the car dealership he met them at, as they went into the dealership during his time there and the owner of the dealership greeted them. He's also explained that he'd only ever intended to pay £9,000 for the car including trading in his car. And that he was told it was less than the normal retail price because of some previous damage. He's also said how friends and family who've also bought cars from car dealers haven't got receipts, so he doesn't think the fact he didn't get one is unusual.

He's said that the reason he said his car didn't have any marks or scratches was that it was in excellent condition and didn't have any major marks or scratches. And that while the scratch due to it being keyed would have been a way to identify the car if it had been recovered, it wasn't particularly significant.

my findings

I've considered all the available evidence and arguments, including what Mr R has said in response to my provisional decision, to decide what's fair and reasonable in the circumstances of this complaint. Having done so I've decided not to uphold it.

As I said in my provisional decision, I think the evidence shows Mr R bought a cloned car. And this meant it didn't legally belong to him. His policy only covers him for the theft of cars he lawfully owns so UKI isn't obliged to pay his claim under the policy. I also explained in my provisional decision why we sometimes make insurers pay claims in this situation. But I still don't think it's appropriate for me to make UKI do that in this case.

I appreciate Mr R has said he thought the car he bought was genuine, but I don't think it would be fair and reasonable to make UKI pay a claim which isn't covered when he didn't get a receipt or any other document to show the person selling him the car was actually from the dealership where he met him. I appreciate he may have seen the man with the seller coming out the dealership, but this isn't the same as getting a receipt from the dealership. And if Mr R had insisted on this, it could have led to him realising the car wasn't genuine. Also, £3,000 under the normal retail price seems quite a lot for the sort of previous damage Mr R has described. And I think this would have made most prospective buyers suspicious.

I also don't think Mr R's explanation for saying his car had no marks or scratches when he made his claim is satisfactory. He's admitted the car had a scratch which was easy enough to see in a photograph and that he could – as he's now suggested – have put no major marks or scratches on the form he completed. But he didn't. So I don't think it's fair to say he submitted his claim in good faith. This is because if UKI had agreed to deal with his claim and known about the scratch, it would probably have deducted something to allow for it. So by not mentioning the scratch Mr R stood to gain at least a small financial advantage.

So – despite my natural sympathy for Mr R, who I appreciate has lost a lot of money, I have to decide what's fair and reasonable overall. And for the reasons I've explained, I still don't think it would be fair to make UKI pay a claim which isn't covered by Mr R's policy.

my final decision

For the reasons explained above and in my provisional decision, I've decided not to uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 14 January 2018.

Robert Short
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