

## **complaint**

Mr M complains that Aviva Insurance Limited wrongly settled a claim against his van insurance policy, as he wasn't involved in the incident in question.

## **background**

A third party told Aviva that an accident took place on 14 December 2016 and that the registration plate for Mr M's van was found at the scene. Mr M said the plate must have been cloned. He said a witness could confirm he was elsewhere at the relevant time, and he also had a receipt to prove it. The witness was later unable to give Aviva a statement. It sad Mr M should tell the police if he thought the plate had been cloned, but he decided not to do so.

Our investigator thought Aviva had acted reasonably. She pointed out that the policy gives Aviva discretion to deal with any claim as it sees fit. It tried to get a statement from the witness, and it considered the receipt Mr M gave it. It noted that there was some damage to his van. She thought it was fair for Aviva to say it was unable to prove the van wasn't involved in the incident. Aviva thought a court wouldn't find in Mr M's favour.

Mr M was unhappy that he didn't get the first letter Aviva sent to him. He contacted it as soon as he got its reminder letter – which was the first he'd heard from Aviva. He explained how the damage to his van happened. He said it wasn't consistent with the third party's description of the accident. He said there was no way his van would be in one place whilst he was working elsewhere. And he pointed out that the registration plate found at the accident site had a different company name on it to the name on his plate at the time.

The investigator said Aviva had shown that the first letter was sent to Mr M's address. She asked it to comment on the damage to his van. Aviva hadn't physically inspected the van (which had been disposed of by the council). It said as the plate may have been replaced, other parts could have been repaired. It also said vehicles vary in reacting to impacts.

We asked Aviva to comment on the different names found on the registration plates. It didn't think they were significant. It said Mr M wasn't the van's first owner. The other company named may have owned it before him. It said the plate was photographed at the scene by a witness. The other driver had a police report confirming it was found there. It said if Mr M had spoken to the police about the plate being cloned, it might have made a difference. As there was no agreement, the complaint was passed to me for review.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Aviva had to consider whether it could defend the claim against Mr M successfully in court. I can see why it thought it wouldn't be able to do that. We only interfere with an insurer's discretion to deal with a claim as it sees fit if it's acted unreasonably. On balance, I don't think Mr M's been able to show that Aviva's done that.

Aviva had to take into account that the other driver described a van that looked like Mr M's van impacting with her car. A registration plate matching his was found at the scene. A witness took photographs of it. The police report says the plate was found there. Aviva was willing to consider the fact that the plate may have been cloned, but it needed Mr M to ask

the police to investigate. Mr M didn't, as he thought he might be charged with leaving the scene of an accident. But there's nothing to suggest that would have happened. And the police could always have contacted him about that offence anyway.

From the images on the file, I agree with Mr M that the damage to his van isn't as extensive as might be expected, given the third party's account of what happened. I think it's unfortunate that Aviva's engineer didn't inspect the van, as that would have shown whether there'd been any recent repairs to it. But I think it was fair for Aviva to point out that vehicles don't always show the damage that might be expected from an impact. So the lack of much visible damage on the images is unlikely to have had much weight in court.

I think by producing a receipt Mr M was able to show that he couldn't have been at the scene of the accident. But I think it was fair for Aviva to say that he can't prove his van wasn't there. Although it seems unlikely, the evidence of the registration plate at the scene is compelling. Mr M could have tried to deal with that by telling the police about a possible cloning. Mr M's plate had his own company name on it. He hasn't commented on what happened to the previous plate. I think that's another matter that the police may have been able to look into had he been prepared to contact them.

Aviva initially defended the claim as a case of mistaken identity. Mr M said a witness could place him and the van elsewhere. Later it became clear that the witness couldn't be used. And crucially, the third party then produced images of the registration plate. That meant Aviva had to rethink its stance. In the meantime, CCTV footage that may have shown the van was elsewhere was lost. Aviva wasn't aware of the CCTV footage at the start. It had no reason to think it would need other evidence. So I don't think it was at fault for this issue.

I think the circumstances in this case are unusual and that Aviva had a difficult decision to make. I think Mr M's account is credible and there's no evidence that he was involved in the accident. But it's a matter of what can be proved in court, on the balance of probabilities. I can see why Mr M's so frustrated by what's happened. He now has a fault claim on his record. But as I don't think Aviva acted unreasonably, I can't uphold Mr M's complaint.

### **my final decision**

My final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I must ask Mr M to accept or reject my decision before 28 July 2018.

Susan Ewins  
**ombudsman**