

complaint

Mr G's complaint is that Amtrust Europe Limited hasn't properly dealt with a claim made under his building warranty.

background

I issued my provisional decision on 27 November 2015, a copy of which is attached and forms part of this final decision. In that decision, I explained why I was minded to uphold the complaint.

Briefly, Mr G purchased a new house that was covered by a building warranty that included insurance cover. He made a claim under that insurance as he was having problems with his boiler. Amtrust didn't think there was enough evidence that the problem with the boiler was covered by the insurance, and thought Mr G should arrange for further investigations.

I didn't think there was any need for further investigations, as there had already been numerous investigations into the cause of the problem and the relevant issues had been identified. I thought those issues were covered by the insurance and so I was of the opinion Amtrust should accept the claim. I also thought it should pay Mr G £300 compensation for its handling of the claim.

I asked both parties if they had any further comments they wished to make before I issued my final decision. But neither party wished to provide further comments.

my findings

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

But as neither party has provided any further comments for me to consider, I see no reason to change my provisional findings. I therefore remain of the opinion that Amtrust should accept the claim, and also pay Mr G £300 compensation for its handling of the matter.

my final decision

My final decision is that I uphold this complaint. I require Amtrust Europe Limited to accept the claim and put the matter right. I also require it to pay Mr G £300 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 5 February 2016.

Chantelle Hurn-Ryan
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr G complains that Amtrust Europe Limited hasn't sufficiently dealt with a claim made under his building warranty.

background

Mr G bought a new house that was covered by a building warranty which included insurance cover. Less than a year after purchasing the property, he noticed problems with the boiler as it made a very loud noise. The developer didn't deal with the problem, so Mr G made a claim to Amtrust under the insurance.

Despite initially paying for repairs to be carried out (which didn't work), Amtrust later thought there wasn't enough evidence that the problem would be covered by the insurance. It advised Mr G that he should appoint an independent engineer (which it would pay for) to find the cause of the damage. Unhappy with this response, Mr G brought a complaint to this service.

Our adjudicator upheld the complaint. She didn't think it was reasonable for Amtrust to ask Mr G to appoint his own engineer. She recommended that Amtrust appoint an engineer to find the cause of damage. The adjudicator also thought Amtrust should pay £300 compensation to Mr G for its handling of his claim.

Amtrust didn't agree with the adjudicator's conclusions, so the matter has been passed to me to consider.

my findings

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

Many investigations have been carried out on the boiler/heating and water system. I don't intend to refer to all of these here, and will instead only refer to those that I consider to be most relevant.

Mr G's plumber inspected the heating and water installation. He proposed a number of options that he thought may resolve the problem. Amtrust agreed for the plumber to carry out some repairs. Unfortunately these didn't work. The plumber thought there was an infrastructure problem relating to the incoming water mains, which he said hadn't been taken into account when the property was designed.

As the plumber's repairs didn't resolve the problem, Amtrust arranged for a firm of heating and water engineers (F) to carry out an inspection.

F noted the heating and domestic hot water was provided by a combination boiler installation. It observed that when more than one outlet was open, water flow rates were noted to decrease significantly. It explained this was because the mains water pressure wasn't sufficient. F said the use of a combination boiler wouldn't normally be recommended for a house of this type and layout, and the boiler's manufacturer had commented that it wouldn't have recommend installing the boiler there.

F thought the issue could be remedied by the water supply to the property being increased, or equipment installed within the house to ensure that sufficient water is available when a number of outlets are open at the same time.

Amtrust says it doesn't have enough information to say what the problem is, and thinks a further engineer's report should be obtained. I disagree and I'll explain why.

The plumber and F found that the mains water supply doesn't provide the pressure needed when more than one tap is being used. It seems this causes the boiler (which isn't appropriate for Mr G's property anyway) to make a loud noise.

I therefore see no reason for a further inspection to be carried out. We know what the issues are. The question is whether or not these fall under the insurance.

The insurance policy covers a 'defect', which is defined as:

"A failure to comply with a functional requirement in the Technical Manual in respect of the construction of the Housing Unit."

I've looked at the Technical Manual, and one of the functional requirements says that design and specifications should provide a satisfactory level of performance.

It's apparent that the water flow isn't considered sufficient when more than one tap is being used. The developer apparently didn't take into account the mains water supply pressure when designing the water and heating system. I don't think the water and heating system could be said to provide a satisfactory level of performance. So I find that the design and specifications functional requirement wasn't complied with.

Another functional requirement is that all materials and products should be appropriate and suitable for their intended purpose. The evidence from F is that the wrong type of boiler for the property was installed. Therefore I also find that this functional requirement wasn't complied with.

It seems to me there's been a failure to comply with two functional requirements in the Technical Manual. So I find that Amtrust should accept the claim and put the problem right.

Amtrust accepts there were delays and confusion caused by its handling of its claim. I would agree with this. I think £300 compensation would be appropriate.

my provisional decision

My provisional decision is that I uphold this complaint. I intend to require Amtrust Europe Limited to accept the claim and put the matter right.

I further intend to require it to pay Mr G £300 compensation.

Chantelle Hurn-Ryan
ombudsman