

## **complaint**

Mr A complains that British Gas Insurance Limited ("British Gas") has refused to meet the cost of repairs to the flat beneath his, caused by a water leak. Mr A believes British Gas should have identified the cause of the water leak when its contractor first came to his flat (above the downstairs flat) to look for evidence of leaks within the flat.

## **background**

Mr A called out British Gas's contractor to his property to investigate concerns about a leak in the flat that appeared to be staining the ceiling of the flat directly beneath his flat. At that point in time, the contractor didn't find any evidence of a leak coming from Mr A's property. Then on 4 October 2016, Mr A complained to British Gas that he'd had to pay £750 to repair damaged caused to the downstairs flat by a leak. He said British Gas should have identified the leak in February and taken steps to resolve the problem.

I've attached my provisional decision dated 26 July 2017 which forms part of this final decision. In my provisional decision I set out why I was intending to not uphold the complaint. I asked both parties to let me have their final submissions by 9 August 2017. However, neither party has provided any further information or arguments for me to consider.

## **my findings**

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. As neither party has provided any new arguments or information for me to consider, I see no reason to change the conclusions set out in my provisional decision. It follows that I don't uphold this complaint.

## **my final decision**

For the reasons set out above and in my provisional decision, my decision is that I don't uphold this complaint or make any award against British Gas Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 18 September 2017.

Carolyn Harwood  
**ombudsman**

## **COPY PROVISIONAL DECISION**

### **complaint**

Mr A complains that British Gas Insurance Limited ("British Gas") has refused to meet the cost of repairs to the flat beneath his, caused by a water leak. Mr A believes British Gas should have identified the cause of the water leak when its contractor first came to his flat (above the downstairs flat) to look for evidence of leaks within the flat.

### **background**

On 11 February 2016 British Gas's contractor attended Mr A's property to investigate concerns about a leak in the flat that appeared to be staining the ceiling of the flat directly beneath Mr A's flat. The contractor didn't find any evidence of a leak coming from Mr A's property, and Mr A's tenant signed a checklist to confirm no leak was visible. The checklist also said that Mr A should monitor the situation.

On 4 October 2016 Mr A complained to British Gas that he'd had to pay £750 to repair damage caused by the leak to the downstairs flat. Mr A said he'd called out a plumber to the flat who confirmed there was a leak. Mr A says that British Gas should have identified the leak in February and taken steps to resolve the problem.

British Gas has been unable to investigate the leak or property damage because it hasn't been able to contact Mr A about this. It says, in any case, as the damage was consequential it wouldn't be responsible for the repair costs.

Our investigator didn't recommend that Mr A's complaint be upheld because his tenant had confirmed there was no visible leak at the time of the February inspection. And he noted that no further contact was made with British Gas until Mr A complained in October 2016. He also said the policy terms and conditions excluded liability for the damage.

Mr A didn't agree, so his complaint's been passed to me.

### **my provisional findings**

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

This is a difficult and finely balanced case to decide. Where the evidence is incomplete or contradictory, I make my decision of what I think most likely happened. And for the reasons I'll now give, I'm of the view that British Gas isn't responsible for the damage to the downstairs flat.

I've first set out a timeline of events relevant to this complaint:

On 8 February, Mr A's managing agent provided photographs to the owner of the downstairs flat, which showed the stained ceiling in the bedroom of the flat was directly under a radiator in Mr A's flat.

On 11 February, British Gas' contractor visited the property. His report recorded no visible leak from the radiator in the bedroom, it noted the ceiling below was brown and concluded the tenant was to monitor the stain. The tenant also said he was told by the contractor that because the stain was brown, it couldn't have come from fresh or recent water.

That report didn't resolve the dispute between the owners of the two flats, over the cause of the leak, so later that day the senior property manager said he'd send a plumber to investigate where the leak was coming from.

On 26 February the plumber appointed by the property manager provided a report that said:

- the tenant of the downstairs flat said the leak occurred two to three weeks ago and happened all of a sudden, then gradually spread, but had recently stopped getting worse;
- he'd accessed the bedroom directly above the stain in Mr A's flat where the tenant of that flat told him they'd recently noticed the radiator valve leaking so called a plumber out to the fix it; and
- a new valve was recently replaced located directly above the stain on the ceiling.

So the plumber concluded the old radiator valve was the most likely cause of the leak. But he also said there's a chance that the pipe below the valve has a slight leak under the floor, but wouldn't know without either lifting the floor in Mr A's flat or opening the ceiling in the flat below. He asked the tenant in the flat below to draw pencil lines around the stain and monitor it.

The tenants of both flats were asked to monitor the situation. But the next development came about in October when a further leak caused damage to the flat below. Mr A was then asked to pay £750 to repair that damage.

The terms and conditions for Mr A's policy say that cover is provided for all repairs to the heat and hot water system, including pipes that connect the central heating system.

I haven't been provided with any evidence in relation to the damage caused to the downstairs flat in October 2016. And British Gas has said it has been unable to contact Mr A to investigate what happened in October 2016, and Mr A doesn't dispute this.

So I have to decide this complaint on the basis of the information I do have.

It seems to me that the damage caused to the ceiling of the downstairs flat in February was most likely caused by the leaking radiator valve because after it was replaced, the leaking stopped, and neither tenant reported further leaking until October 2016. As far as I'm aware there's no evidence that the stain grew between February and October, so it seems that the repairs done in February stopped that leak.

For this reason I don't think that the October 2016 leak was a continuation of the February 2016 leak. On balance, I think it was a new leak. And as British Gas hasn't been able to investigate its cause it's not possible to determine whether the cost of the repairs is covered under the policy. In the circumstances, I'm currently of the view that British Gas didn't act unreasonably in turning the claim down.

### **my provisional decision**

For the reasons set out above, my provisional decision is that I don't uphold Mr A's complaint against British Gas Insurance Limited.

I now invite Mr A and British Gas Insurance Limited to provide me with any further information or arguments they'd like me to consider before I issue my final decision on this complaint.

Carolyn Harwood  
**ombudsman**