

complaint

Mr and Mrs G complain that U K Insurance Limited (UKI) won't meet their claim for a boiler that they'd had to replace. They made the claim under their landlord's insurance policy.

background

Mr and Mrs G bought a landlord's insurance policy. They say they bought it largely because it offered to pay the cost of repairing or replacing a boiler that broke down.

In November 2018, Mr and Mrs G's tenant said the carbon monoxide alarm had gone off – and they'd felt unwell the next day. Mr and Mrs G arranged for the boiler to be inspected and it was discovered that there were high carbon monoxide readings – and that the boiler case seals and flue were obsolete. The contractor capped off the gas supply to stop the boiler from being used as it was unsafe.

Mr and Mrs G contacted UKI, which said it would consider the claim. UKI then said it wouldn't meet the claim as the boiler hadn't actually broken down as the policy defined.

Mr and Mrs G complained, but UKI didn't change its stance. So they brought their complaint to this service.

Our investigator didn't think, initially, that UKI need meet the claim. But they later said they thought it should, because switching off the gas supply was a "sudden stoppage" as defined in the policy. UKI doesn't think that's fair, so I've been asked to decide this complaint.

my findings

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

I'm going to uphold this complaint, albeit for somewhat different reasons from that of our investigator.

For Mr and Mrs G to make a successful claim, they must first show that what's called "an insured event" has taken place. In this case Mr and Mrs G say their boiler has broken down. Looking at the policy terms and conditions I can see that Mr and Mrs G's boiler is covered – boilers are included in the list of covered equipment.

It's for Mr and Mrs G to show that their boiler has broken down as defined in the policy. UKI says they haven't done that. So I've thought carefully about what Mr and Mrs G have told us and considered this in light of the terms and conditions. The relevant wording is:

Breakdown

a the actual breaking failure distortion or burning out of any part of the Covered Equipment whilst in ordinary use arising from defects in the Covered Equipment causing its sudden stoppage and necessitating repair or replacement before it can resume work.

The information Mr and Mrs G sent us says that the boiler case seal and flue are obsolete, and there's an additional comment of "will not fire". The engineer switched off the gas to prevent the boiler from being used.

Our investigator thought the fact that the gas had been switched off meant there was a “sudden stoppage”. UKI says the boiler was still working, so there was no sudden stoppage. I don’t think whether switching off the gas is a sudden stoppage or not means I can’t reach a fair decision here.

That’s because I’ve considered the rest of the wording.

Having done so, I think there are two relevant points. First, I think there *has* been a “failure” of the case and flue (which are part of the boiler), because they are leaking carbon monoxide. Mr and Mrs G sent us some evidence to show they’d had the boiler checked and declared safe to use about six months earlier, so I think it’s fair to say there wasn’t a leak at that point. The engineers report also says, alongside the comments on the flue and casing, “will not fire”. I think that’s a “sudden stoppage” as defined in the policy: it suggests there’s an underlying problem with the boiler, which might be contributing to the leak.

UKI told Mr and Mrs G that the boiler hadn’t suffered an electrical or mechanical breakdown, so hadn’t met the description of a breakdown in the policy. I don’t think UKI can rely on that argument for two reasons. First, I think the report suggests there *has* been a mechanical or electrical breakdown, if the boiler “will not fire”. But even if that weren’t the case, I haven’t seen anything in the policy that says a breakdown *has* to be for one of these two reasons. So it wouldn’t be fair for UKI to impose that restriction when assessing if a failure has occurred.

It follows that I think UKI should have accepted this claim. It could then have considered whether there were any reasons – commonly called “exclusions” – in the policy that meant it need not meet the claim. But UKI decided not to do that, and Mr and Mrs G have, understandably, had the boiler replaced. So there’s no longer any way for UKI to apply any exclusions. Without a valid reason not to, UKI should meet the claim.

Mr and Mrs G paid £1,380 to replace the boiler in November 2018. They’ve had to meet this cost out of their own funds. So I think it’s fair for UKI to pay Mr and Mrs G this amount plus interest at the statutory rate to make up for the fact that they’ve been out of pocket for some time.

I agree with our investigator that Mr and Mrs G have been caused some inconvenience by UKI’s handling of this claim, and I think the £100 compensation for this is appropriate.

Mr and Mrs G have also told us they think UKI mis-sold the policy, because they were enticed into buying it by the promises made in UKI’s advertising. We’ve suggested they raise this as a separate complaint should they wish to do so, and I’ll leave it with Mr and Mrs G to decide what they want to do about that.

my final decision

My decision is that I uphold this complaint. I order U K Insurance Limited to:

- Meet this claim by paying the cost of the replacement boiler and fitting (£1,380), plus interest* at 8% simple per annum from the date Mr and Mrs G paid for this to the date of refund.
- Pay £100 compensation for the way it dealt with the claim.

*HMRC may require UKI to deduct tax from this interest before making payment, and UKI must give Mr and Mrs G a tax certificate showing this deduction if they ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 12 June 2020.

Sue Peters
ombudsman