

complaint

Mr L complains that after his car was damaged, Tesco Underwriting Limited:

- voided his motor insurance policy – that is cancelled it from the outset; and
- scrapped his car without paying him the full value of his car.

background

I set out the circumstances leading to this complaint, and my provisional findings, in the provisional decision which I issued to Mr L and to Tesco Underwriting on 20 March 2014. A copy of this provisional decision is attached below.

Tesco Underwriting accepted my provisional decision. Mr L did not respond further.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As neither Mr L nor Tesco Underwriting has provided any fresh information or evidence in response to my provisional decision, I find no basis to depart from my earlier conclusions.

my final decision

My final decision is that I uphold this complaint in part. I order Tesco Underwriting Limited, if it has not received any claim or intimation of a claim from any third party:

1. to return to Mr L the balance it still holds of the premium he has paid; and
2. to pay him interest on the sum returned at the annual rate of 8% simple from the day six months after the date of the accident until settlement.

If Tesco Underwriting considers it has to deduct tax from the interest element of my award, it should send Mr L a tax deduction certificate when making payment, which he can use to reclaim the tax, if he is entitled to do so.

Lennox Towers
ombudsman

PROVISIONAL DECISION

complaint

Mr L complains that after his car was damaged, Tesco Underwriting Limited:

- voided his motor insurance policy – that is cancelled it from the outset; and
- scrapped his car without paying him the full value of his car.

our initial conclusions

In April 2012, Mr L took out a motor insurance policy, online, with Tesco Underwriting. In November 2012, the car skidded, hit a wall, and was damaged. Mr L claimed on his policy.

In December 2012, Tesco Underwriting wrote to Mr L saying that the car was uneconomic to repair. It proposed to pay him its value - £1,708 less his uninsured excess of £700, and asked his permission to scrap the car. Mr L agreed, and the car was scrapped.

However, when Tesco Underwriting received the vehicle registration certificate it had asked for, it found that the car was not registered in Mr L's name, but in his son's name. It said that had it known this at the time Mr L applied for the policy, it would not have issued the policy to Mr L. It said it was cancelling the policy from the outset, and would not pay out on the claim.

It refunded the proportion of the premium for the period after the accident. But it kept the proportion of the premium for the period before the accident to cover any claim that might be made by a third party for damage caused by the accident. It paid Mr L the scrap value of £226 it had received for the car.

Our adjudicator did not recommend that this complaint should be upheld. He was satisfied that Tesco Underwriting would not have issued the policy to Mr L if it had known the car was registered in his son's name. So he considered the policy was fairly cancelled from the outset. As no cover had been in place, the premium would normally be returned. However, Tesco Underwriting might have to pay third party costs arising from the accident, and so it was fair for it to keep part of the premium to cover this.

He said that Tesco Underwriting should not have processed the car for scrap until it knew that it would pay out on the claim. It would then have been able to return the car to Mr L if he wanted it. However Tesco Underwriting estimated that the repair costs would have been in the region of £4,000, so the adjudicator thought it unlikely that Mr L would in fact have repaired the car. It was therefore fair that Tesco Underwriting had paid him the scrap value it received for the car.

Mr L responded to say, in summary, that:

- when the car was bought, he had paid for it, but his son had then collected it and signed the V5 registration form; and
- if Tesco Underwriting was not going to pay his claim, it should not have scrapped the car without consulting him.

my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Tesco Underwriting has confirmed that its underwriting policy was that Mr L had to be the owner and registered keeper of the car to take out the policy, and Mr L would have had to agree a statement to that effect online to take out the policy. As Mr L was not the registered keeper of the car, I consider that Tesco Underwriting was entitled to cancel the policy from the outset.

While Tesco Underwriting should have waited until it was satisfied it would pay out on Mr L's claim before proceeding to scrap the car, I am not persuaded that Mr L would have acted differently if he had been told of Tesco Underwriting's decision earlier, in view of the considerable sum he would have had to find to repair the car.

Where an insurer voids or cancels a policy, it can still find that it has to pay out on a claim by a third party, such as the driver of another car. So it is reasonable for it to retain all or part of the premium to meet such a claim. However in this case, no other car was involved. Mr L's car was damaged when it skidded and hit a wall. It may be that some damage was caused to the wall; however, I have not seen any evidence of this, or that Tesco Underwriting has received any claim from the owner of the wall.

It is now 15 months since the accident. It is not reasonable that Tesco Underwriting should be able to retain part of Mr L's premium indefinitely if the owner of the wall gives no indication that it intends to make a claim. I consider that six months is a reasonable period for an insurer to retain premium money. If by the end of that period no claim has been made or intimated by any third party, I consider that an insurer should refund any premium money it holds.

In this case, if Tesco Underwriting has not received any claim or notice of claim, I conclude that the balance of Mr L's premium should be returned to him. He should also receive interest on the sum returned from the day six months after the date of the accident.

my provisional decision

For the reasons I have explained, but subject to any further comments or evidence I receive from Mr L or from Tesco Underwriting by 1 May 2014, my provisional decision is that I am minded to uphold this complaint in part. I intend to order Tesco Underwriting Limited, if it has not received any claim or intimation of a claim from any third party:

1. to return to Mr L the balance it still holds of the premium he has paid; and
2. to pay him interest on the sum returned at the annual rate of 8% simple from the day six months after the date of the accident until settlement.

If Tesco Underwriting considers it has to deduct tax from the interest element of my award, it should send Mr L a tax deduction certificate when making payment, which he can use to reclaim the tax, if he is entitled to do so.

Lennox Towers
ombudsman