

complaint

Mr G has complained that Tradewise Insurance Company Limited refused to cover him, on his motor trade policy, for a claim made against him.

background

Mr G was working in the motor trade when, in 2013, he had an accident while driving a client's car. He changed address shortly after and says he didn't hear anything else about it. But the other driver had made a claim against Mr G and a judge found him at fault for the accident. The insurer of the client's car (the other insurer) paid the damages the court awarded against Mr G.

In November 2015 the other insurer told Mr G it was taking court action to recover the damages it had paid from him. Mr G asked Tradewise to cover him but it refused. So Mr G brought his complaint to us.

The adjudicator didn't think that Tradewise had done anything wrong. But Mr G didn't agree and asked for an ombudsman's decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not going to uphold it.

Tradewise insured Mr G on a third party basis at the time he had the accident. But Tradewise refused to cover Mr G for the accident because it said he'd breached the terms of his policy. In particular it said he hadn't told it about the claim against him soon enough. It said that if he'd done so, it could have taken action to help him defend the claim or to reduce the costs of any settlement. So it said Mr G's failure to keep it informed had prejudiced it.

Mr G said he didn't know anything about the court action until November 2015 and so couldn't have told Tradewise what was going on sooner.

Mr G changed address after the accident so it was certainly possible that some of the court papers went to his old address. But before a judge will make a finding against a defendant who hasn't appeared in court, the claimants in the case have to show that they've served the appropriate papers on the defendant, Mr G in this case.

As a judge found Mr G at fault, I think that means that the claimants convinced the judge that they'd given the appropriate papers to Mr G and that he was aware of the claim. On balance, therefore, I think he should have known about the case and should have told Tradewise about it. So I don't think Mr G's done enough to show he couldn't tell Tradewise about the claim against him earlier.

I've thought about what would have happened if Mr G had told Tradewise about the court case. While I can't say that the result would have been different, it's likely Tradewise could've helped his defence, or taken other action to try and reduce any award or settlement. But, as it didn't know what was happening, it hasn't been able to do that. In other words it's been prejudiced.

I'm sorry to send Mr G a decision that will disappoint him but I don't think Tradewise has done anything wrong in refusing to cover him.

my final decision

For the reasons set out above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 31 May 2016.

Joe Scott
ombudsman