

complaint

Mr B complains that Bastion Insurance Co. Ltd is responsible for poor service in connection with a home emergency insurance policy.

background

In October 2018 Mr B took out a home emergency insurance policy. It was branded with the name of an insurance intermediary. He agreed to pay the yearly premium of £115.00.

Bastion was the insurer responsible for dealing with claims. Where I refer to Bastion or the insurer I include claims-handlers and others for whose actions I hold Bastion responsible.

In April 2019 Mr B called the insurer for help with his central heating boiler. He complained that it declined to send anyone to help. He has since got a private engineer to replace the boiler and he says Bastion should pay the cost of £799.00.

our investigator's opinion

Our investigator didn't recommend that the complaint should be upheld. He didn't think that Bastion acted in an unfair way towards Mr B by not accepting his home emergency claim. The investigator didn't think that Mr B's claim met the policy definition of an emergency.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr B and to Bastion on 19 August 2019. I summarise my findings:

I wasn't satisfied that the policy documents clearly excluded boiler breakdowns not characterised by a risk to the home or its occupants. So I found that the insurer treated Mr B unfairly by relying on such an exclusion. I thought the insurer should've sent an engineer.

I had no reason to doubt Mr B's statement that he ended up paying for a new boiler (but I hadn't seen any invoice). I inferred that Mr B's engineer or engineers had said – and he had agreed – that it wasn't economic to repair the old boiler.

I found it likely that the insurer's engineer would also have said the old boiler was beyond economic repair. For that reason I didn't think the insurer had to repair or replace it. And I didn't find it fair and reasonable to direct Bastion to reimburse Mr B for the cost of the new boiler.

But I found that the insurer treated Mr B unfairly. And I didn't doubt that this added to his distress and inconvenience at an already difficult time for him. So I was minded to direct the insurer to pay him compensation. I was minded that £100.00 would be fair and reasonable.

Subject to any further information from Mr B or from Bastion, my provisional decision was that I was minded to uphold this complaint in part. I intended to direct Bastion Insurance Co. Ltd to pay Mr B £100.00 for distress and inconvenience.

In response to the provisional decision, Mr B has sent us a copy of an invoice for a new boiler.

Bastion disagrees with the provisional decision. It says, in summary, that:

- It isn't clear that there was a "*complete failure*" of the boiler as it was starting up again.
- It doesn't cover an annual service. It didn't issue the policy schedule.
- No "*emergency*" was occurring and no immediate action was required. So the claims decision was correct.
- The intermediary had no claims authority.
- Bastion terminated its relationship with the intermediary last year due to mis-selling and mis-advising. Bastion and the intermediary are currently in a legal dispute in regards to this.

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 accept that the intermediary issued the policy schedule. But I think it must've done so under authority from the insurer – which must take responsibility for its wording. The policy schedule said Mr B had "*Boiler & Heating Cover with Annual Service*". To me that strongly suggests that the insurer would (subject to some policy terms) cover a boiler breakdown.

The policy terms included the following:

"What is Covered

This policy provides cover for emergency events occurring at the home. This policy provides You with access to Our nationwide skilled contractor network and emergency helpline. Valid claims cover callout, labour and parts (subject to claim limit) to alleviate the immediate emergency.

In the event of an emergency occurring in Your home. We will:

- a. Advise you on what action to take to protect yourself and your home;*
- b. Send one of our approved engineers, or arrange an appointment for an approved engineer, to visit your home;*
- c. Organise and pay the cost of providing assistance, up to the claim limit, including VAT.*

Indemnity Limit

Our liability per claim, under this section, will be limited to £500 after the deduction of any Excess, if applicable."

The use of the word "emergency" is not capitalised or in bold type. So there's nothing to alert the policyholder to the following definition:

"Emergency means a sudden and unexpected event, which is reported within 24 hours of first noticing the fault, and which if not dealt with, would, in the reasonable opinion of the helpline:

- *render the home unsafe or insecure; or*
- *damage or cause further damage to the home; or*
- *cause personal risk to you."*

Under that definition, an emergency must be an event which if not dealt with, would have one of the effects set out in those three bullet points (characterised by a risk to the home or its occupants).

The policy also contained the following term:

“Cover

This policy provides covers for the following Emergencies, which occur at the Home. The amount We will pay in respect of any one claim shall not exceed the claim limit.

...

Primary Heating System (if selected)

We will assist You to restore heating and/or hot water to Your Home following an Emergency arising from the sudden and unexpected complete failure of the primary heating system. We will only attend to one primary heating system failure during the period of cover in Your schedule. Before assistance can be provided You must provide Us with proof of servicing. Failure to service Your primary heating system will result in Your claim being denied.”

I've added the underling to the key part of the wording. A strict reading of that wording (and the definition of “Emergency”) is that if there is not only a boiler breakdown but also an event characterised by a risk to the home or its occupants then the insurer will assist the policyholder to restore heating and hot water.

But I think that most reasonable people would think the underlined wording means that the sudden failure of the central heating boiler is an “Emergency” to which the insurer will respond by restoring heating and hot water.

The policy wording continues with the following:

“We do not cover:

...

c) A boiler which is more than 15 years old;

...

e) Faults on boilers not serviced within the last 12 months;

..

k) Descaling or any work arising from hard water scale deposits, including de-sludging and the effects of aggressive water and clearing of airlocks; and replacement of water tanks or hot water cylinders;

...

m) Replacement or repairing any loss or damage if the boiler is, in the opinion of the engineer, beyond economical repair;

...

p) Reoccurring or intermittent faults, nor boiler/ system noise where the boiler is still functioning;...”

That list of exclusions doesn't mention boiler breakdowns not characterised by a risk to the home or its occupants.

I can see that the insurer believed that – in order to be covered – there must be a complete failure of the heating system and – in addition – one of the effects set out in the three bullet points.

But – if that’s what the policy wording means – then that would be a significant term. And – in order for it to be fair for the insurer to rely on it – I would need to be satisfied that it was clear enough in the policy documents. I’m not satisfied that the definition does exclude boiler breakdowns not characterised by a risk to the home or its occupants. And I’m not satisfied that the insurer made that at all clear.

When Mr B rang the insurer, he already had a problem. That’s why he rang on 7 April 2019 (a Sunday) at about midday. From the recording of that call, Mr B said his boiler wasn’t working. He said that if he reset the boiler it worked for a minute before turning off again. To me, that’s not an intermittent fault- it’s a boiler breakdown.

In answer to a question, he said the boiler was 14 years old and was last serviced a couple of weeks before his call. In answer to a question about “harm” Mr B said he couldn’t have a bath and the house was cold. He answered “No” to a question about “damage”.

Bastion said he didn’t meet the criteria for it to send an engineer out. I think matters were left on the basis that Mr B intended to ring the intermediary the next morning.

I think Mr B did ring the intermediary the next morning. He then spoke again to the insurer. I think there was a moment when he wasn’t clear about whether he had first made his claim on the Sunday or on the Monday morning. But Mr B quickly accepted that he’d first rung the insurer on the Sunday. So I don’t think he gave any incorrect information about that.

He said that the intermediary had that morning told him the policy covered his boiler as it had started to leak. But the insurer said his claim hadn’t been accepted.

In its final response letter Bastion said it rejected the claim as it didn’t meet the policy definition of an emergency. It added that the fault was intermittent. And it said Mr B had given incorrect information during his second call on Monday 8 April.

I haven’t found that the fault was intermittent or that Mr B gave incorrect information on 8 April.

I’m not satisfied that the policy documents clearly excluded boiler breakdowns not characterised by a risk to the home or its occupants. So I find that the insurer treated Mr B unfairly by relying on such an exclusion. I think the insurer should’ve sent an engineer.

Instead, Mr B rang again asking the insurer for help on Monday 8 April. He then had to engage one or more other engineers. I keep in mind that Mr B’s old boiler was 14 years old and had broken down. I find it likely that Mr B asked about getting it repaired.

I have no reason to doubt his statement that he ended up paying for a new boiler. I have now seen an invoice for £876.74. I infer that Mr B’s engineer or engineers had said – and he had agreed – that it wasn’t economic to repair the old boiler.

I find it likely that the insurer’s engineer would also have said that the old boiler was beyond economic repair. For that reason I don’t think the insurer had to repair or replace it. And I don’t find it fair and reasonable to direct the insurer to reimburse Mr B for the cost of the new boiler.

But I've found that the insurer treated Mr B unfairly. And I don't doubt that this added to his distress and inconvenience at an already difficult time for him. So I'm minded to direct the insurer to pay him compensation. I'm minded that £100.00 is fair and reasonable.

my final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Bastion Insurance Co. Ltd to pay Mr B £100.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 October 2019.

Christopher Gilbert
ombudsman