

complaint

Mr D complains about the liability decision that One Insurance Limited made on his claim on his motor insurance policy following an accident which he does not believe was his fault. He wants One Insurance to investigate his claim properly and for it to be deemed non-fault.

background

Mr D was involved in a car accident when he pulled out from a side road and a third party collided with his car. Mr D is adamant that the way was clear and that the third party must have been speeding. Mr D was injured and his car was deemed beyond economical repair. Mr D is unhappy that One Insurance accepted full liability on his behalf due to the circumstances of the accident and the lack of independent witnesses or CCTV footage. He says that he was forced into admitting liability or One Insurance would not recover his car from the scene of the accident. Mr D is unhappy that his full premium became due when his car was written off and that this was not in the policy booklet. He was also unhappy with One Insurance's valuation of his car.

The adjudicator did not recommend that the complaint should be upheld. She thought that One Insurance was entitled to decide liability based on the available evidence. She thought that the policy booklet did state that the full premium would be due in the event of a total loss. She listened to all the calls between One Insurance and Mr D and did not feel that One Insurance had 'blackmailed' Mr D into accepting liability. She recommended an increase in the total loss offer that was made and this was agreed by both parties.

Mr D responded that he is adamant that he was not at fault for the accident and he remains unhappy with the level of service he received from One Insurance.

my findings

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

I can understand that Mr D has found this experience stressful and frustrating. He was involved in a car accident where he was injured and had the worry that his child might also have been hurt. He is adamant that he was not at fault for the accident and is frustrated by One Insurance's level of service. I note that Mr D and One Insurance have agreed a settlement offer for his car.

Mr D says that the accident was not his fault and that the third party must have been speeding. The adjudicator has already explained that it is not this service's role to decide who was responsible for causing the accident, as this is the role of the courts. Instead, our role in complaints of this nature is simply to investigate whether the insurer acted fairly and reasonably and, most importantly, in line with the terms and conditions of the policy when it made the decision to settle the claim.

Further, One Insurance is entitled under the terms and conditions of its policy with Mr D to take over, defend, or settle a claim as it sees fit. In other words, if he wants One Insurance to provide him with insurance, Mr D has to follow its advice in connection with the settlement of his claim, whether he agrees with the outcome or not. This is a common term in motor insurance policies and I do not find it unusual. Insurers are entitled to take a commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

Both parties dispute liability and there were no independent witnesses of CCTV footage to support either side's account. Mr D mentioned that there were two independent witnesses, but he has not provided further details of these. One Insurance therefore decided that if the matter went to court, it would not be able to defend Mr D's case and it settled the third party's claim. I find that I am not persuaded by Mr D's claim that the third party must have been speeding in order to write off his car as there is no expert technical evidence to support this. As the third party had right of way and there is no way to prove that he was speeding, I find that One Insurance's decision is not unreasonable. It follows that I find that I do not require One Insurance to investigate the claim further or to deem it to be non-fault.

Mr D said that in his call to report the accident, One Insurance said that it would not recover his car unless he admitted liability. However, I find that this is not supported by the call recordings and consequently I am not able to conclude that One Insurance has made an error.

Mr D is unhappy that his full premium became due when his car was deemed a total loss and that One Insurance had not provided him with a policy booklet where this policy term was included. However, I find that this common term is clearly set out in the policy booklet that One Insurance made available to Mr D online. Consequently, I find that One Insurance has not treated Mr D unfairly by requiring him to pay his outstanding premium.

my final decision

For the reasons above, it is my final decision that I do not uphold this complaint and I make no award against One Insurance Limited.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr D to accept or reject my decision before 29 January 2015.

Phillip Berechree
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