

complaint

Mr T complains that Amtrust International Underwriters Ltd declined to attend a claim for the boiler at Mrs N's property as he was not the policyholder.

background

Mr T contacted Amtrust in November 2012 as the boiler at Mrs N's property had broken down. During the call, Mr T made Amtrust aware that Mrs N had passed away in October 2012 and that he was the executer of her estate.

Amtrust declined to attend to the breakdown as the policy was not transferrable and Mrs N was the registered policyholder and not Mr T. It also said that the policy did not provide cover for uninhabited properties.

Mr T subsequently contacted British Gas and arranged for it to carry out a repair at a one off cost of £99 and complained to Amtrust and requested that it reimburse the cost and transfer the policy into his name.

Amtrust declined to reimburse the cost of the private repairs and transfer the policy into his name. However, it did agree to refund £83.94 which was all of the premiums collected for the policy year.

Our adjudicator told Mr T that we could not require Amtrust to transfer the policy into his name but considered that Amtrust had incorrectly declined the claim as the policy did not provide any exclusion of cover where the property is uninhabited and that the insured risk was for boiler and not the policyholder.

As Mrs N had passed away shortly before the boiler broke down, our adjudicator did not believe it was unreasonable that Mr T had not notified Amtrust of this and recommended that it should reimburse the cost of the private repairs (minus the refund of premiums) and pay £100 compensation for distress and inconvenience caused.

Amtrust did not accept our adjudicator's recommendations and requested that the matter be referred to an ombudsman.

my findings

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

First, in the latest communication from Amtrust it has referred to a view issued by a different adjudicator on a different case that shares some similarity to Mrs N's complaint. However, an ombudsman is not bound to an adjudicator's view and considers the merits on the individual circumstances.

I also understand that Mr T is seeking for the policy terms and conditions to be changed to allow cover to be maintained in the event of a policyholder's death. However, it is not the role of the ombudsman service to change policy terms and conditions but to decide whether the business has fairly applied the terms given the circumstances of the claim.

As I understand it, Amtrust has declined the claim made by Mr T on 13 November 2012 as he was not the named policyholder and was not resident at the insured property. It has referred to the policy terms which define the insured as:

“Insured, You, Your

The individual customer applying for this insurance as detailed on the schedule or any member of their family resident at the Property.”

Whilst I appreciate that the policy sets out that the insured needs to be someone resident at the property and that at the time of the claim Mr T was not a resident, I consider that Amtrust has unfairly relied upon this term to decline the claim.

Given that Mrs N died in October 2012 and that the boiler broke down within a month of this, I do not believe that it was unreasonable that Mr T had not informed Amtrust of Mrs N's death. Mr T has also said that he was attending the property nearly every day during this period and given the circumstances I see no reason to doubt his statement.

The primary purpose of the policy is to provide cover in the event of the boiler breaking down and I do not consider that who the policyholder is affects the insured risk in this case. In addition, whilst Mr T was not resident at the property, he was attending the property every day and in this case I am not satisfied that his not being resident at the property has affected the insured risk or has prejudiced Amtrust's position. Because of this, I am satisfied that Amtrust has unfairly declined Mr T's claim.

I understand that Amtrust has refunded all of the premiums paid for the policy since it had renewed. However, as the circumstances of the claim made by Mr T should have been covered and as I consider that the claim was unfairly declined, I do not believe that the refund of premiums is an appropriate settlement.

In addition, given that Mrs N had recently died and that Mr T was in the process of managing her estate, I am satisfied that Mr T has experienced distress and inconvenience as a result of Amtrust declining the claim and an amount of compensation is warranted.

my final decision

For the above reasons, my final decision is that I uphold this complaint in part. I require Amtrust International Underwriters Ltd to:

Reimburse the £99 for the cost of the private repairs (minus the amounts of premiums refunded);

Pay Mr T £100 for distress and inconvenience.

Christopher Tilson
ombudsman