

complaint

Rentokil Insurance Limited declined Mr and Mrs R's claim.

background

Mr and Mrs R bought a new home. When they bought the property part of it was infested. They arranged and paid for the repairs that were needed.

The previous owner had taken out an insurance policy which provided cover against infestation by wood boring insects. If the property is sold, the benefits provided by the policy are transferred to the new owners. Mr and Mrs R were unaware of the policy until Rentokil wrote to them shortly before the policy was due to renew. Rentokil had only found out a few days earlier that Mr and Mrs R now owned the property. Mr and Mrs R didn't renew the policy and it expired.

Mr and Mrs R later tried to claim under the policy for the costs they incurred in repairing the infestation. They said that had they been aware of the policy they would have made a claim in the first place. Rentokil declined the claim. It said claims had to be made before the cover ended. It also said that repairs shouldn't be carried out or paid for without its written permission.

Our adjudicator thought that the complaint should be upheld. He accepted that some of the conditions contained within the policy hadn't been complied with. However, he didn't think it was fair for Rentokil to decline the claim on this basis as it hadn't been disadvantaged. He thought Rentokil should actually assess the claim based on the information that is now available. Rentokil disagreed with our adjudicator. It made various comments about it not being able to assess the damage or the appropriate repair costs.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

It was a condition of the policy that:

- Rentokil be told of a claim as soon as Mr and Mrs R become aware of the potential for one to be made
- Mr and Mrs R not carry out any inspections or repairs without Rentokil's permission
- claims can only be made before the policy ends.

Irrespective of the reason(s) why, it is clear to me that these conditions were not met. However, it has long been our position, and been considered good industry practice, that it's unfair for insurers to decline claims if a condition not being met hasn't disadvantaged them in some way.

Rentokil has given numerous reasons why it's entitled to decline the claim and why it might be difficult to assess the claim now. But I don't find these persuasive. For example, it said it wasn't given an opportunity to assess the claim or a fair settlement. But this is simply not true. It had the opportunity to do this when Mr and Mrs R made the claim. But rather than doing so – eg by getting more information from Mr and Mrs R, their surveyor and/or the repairer – Rentokil opted to rely on the policy conditions and decline the claim (without

following good industry practice and showing that it had been disadvantaged). Similarly, Rentokil made the point that upon discovering the problem Mr and Mrs R might have re-negotiated the purchase price with the previous owner. Indeed they might have. But Rentokil chose not to make any enquiries in this respect.

It may well be that Rentokil has been disadvantaged in some way. It mentioned for example that had the claim been made the repair costs might have been less as it would have got its sister company to do them. The problem Rentokil has though is that it hasn't shown any disadvantage. And it needed to do that if it was going to convince me that declining the claim for the reason it did was fair. And even if Rentokil could have arranged cheaper repairs, that still might not mean that it's fair to decline the claim outright – it might be fairer for the settlement to simply be based on how much Rentokil would have paid its sister company.

I don't see this as a case where Rentokil *can't* try and retrospectively assess Mr and Mrs R's claim. I believe that it can – by simply contacting the people involved to get as much information as possible. Rather, this is a case where Rentokil *chose* not to assess the claim. And by doing that, it hasn't shown that it was disadvantaged by the policy conditions not being met.

I therefore conclude that Rentokil declining the claim for the reason it did was unfair.

my final decision

I uphold this complaint. I require Rentokil Insurance Limited to carry out a proper assessment of Mr and Mrs R's claim based on the information that is available and to make a further decision on its liability under the terms policy (taking account of what I have said above)¹.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs R to accept or reject my decision before 19 January 2016.

Paul Daniel
ombudsman

¹ For the avoidance of any doubt, this might mean that Rentokil still declines the claim (for another, or the same, reason), or that it only partially settles the claim.