

complaint

Mr B complains that Admiral Insurance Company Limited refused to deal with his car insurance claim and cancelled his policy.

background

Mr B was driving his car in the early hours of a morning. He crashed into another vehicle that was parked and stationary. He said he'd been knocked unconscious and when he came round he ran home and drank some alcohol. He telephoned the police to say his car had been stolen. The police called at Mr B's house a few hours later. He was arrested and later breathalysed. He said he gave two samples of breath and the readings were 41mcg and 39mcg per 100mls of breath. This was over the legal limit of 35mcg but he wasn't prosecuted for a drink drive offence. Admiral told Mr B that it wouldn't cover his claim and would cancel his policy as it thought he'd been over the legal limit at the time of the accident.

Our adjudicator initially thought that the complaint should be upheld. This was because Mr B hadn't been charged with a drink driving offence. And he said Admiral had no evidence that Mr B had been over the limit at the time of the accident as he was tested four and a half hours later.

Mr B's case was reviewed again and it was felt that Admiral had acted fairly. This was because although Mr B hadn't been prosecuted for a drink drive offence, he was recorded by police as having more alcohol in his breath than he was legally allowed to. Mr B had also lied to the police about his car being stolen and had fled the scene of the accident.

Mr B didn't agree. He thought the adjudicator and Admiral had made assumptions without evidence. He says that neither his lie to the police nor his running away from the accident are relevant to the key point of whether or not he was over the limit at the time of the accident.

my findings

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

The issue I have to decide is whether Admiral acted fairly by refusing to deal with Mr B's claim and cancelling his policy.

Under the policy Mr B isn't covered if an accident happens and he is found to be over the prescribed limit for alcohol.

I accept Mr B wasn't breathalysed at the time of the accident. And I note he says he drank some alcohol after the accident. But this doesn't mean he was below the limit at the time of the accident and I'll explain why.

The main issue for me is that Mr B lied to police. He was arrested for perverting the course of justice but charged with obstructing a police officer in the course of their duty (and leaving the scene of an accident). He has a criminal record as a result. And whilst he wasn't prosecuted for a drink drive offence his breath test result was over the prescribed limit. It's a matter of policy that readings over 35mcg but below 40mcg aren't prosecuted (and police can only pursue the lower of the two readings).

It's only Mr B's word that he drank alcohol after the accident. I make my findings based on what's more likely than not. I don't think Mr B's credible or reliable in this case. He lied to the police and only admitted things once confronted by them. I don't find it convincing at all that he lied because of a relative's bad advice or due to any injury he says he suffered in the accident. In fact if he'd crashed because of poor weather and had been knocked unconscious I think it's more likely than not that he'd be told to get hospital treatment.

I just don't believe his story that he was told to lie to police. But even if he was told this it was his choice to lie rather than call an ambulance or for other emergency help, which would have been the appropriate thing to do if he was injured in the way he claims. The breath tests were several hours after the crash but I don't think they were influenced by any post-accident drinking. I think that in all likelihood Mr B lied about drinking after the accident. And I think it's more likely than not that Mr B did all this because he'd been drinking alcohol earlier and was over the limit when he crashed. And by leaving the scene of the crash and misleading police he was able to avoid any face to face contact at the scene and the inevitable breath test he'd have been given there and then.

Admiral felt that Mr B was over the limit when he crashed. And for the reasons given I can understand why Admiral didn't give any credibility to his version of events. Mr B didn't come across as believable and I think Admiral's decision was fair and in line with the policy terms.

my final decision

My final decision is that I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 November 2015.

Sean Hamilton
ombudsman