Financial Ombudsman Service

complaint

Miss P had a motor insurance policy with Southern Rock Insurance Company. She says it caused another insurer to refuse to pay for the damage to her car and a personal injury claim. She's also unhappy Southern Rock voided the policy and didn't return the premiums.

background

Mr M was a named driver on Miss P's policy. In November 2014 he was driving her car when another party drove into its rear. As the policy only covered third party claims, fire and theft, Southern Rock referred Miss P to a credit hire firm ("Firm A"). Miss P was given a courtesy car by Firm A and it sent an invoice for repairs to the other party's insurer.

An independent engineer inspected both cars. He found very little damage to the other party's car, but substantial *old* damage to Miss P's car, including damage to the bumper. The engineer said the other party's car could only have added slightly to the existing damage on the bumper. He thought the old damage would have meant the car was a write-off.

Miss P and Mr M thought Southern Rock should have told Firm A there was previous damage to the car. It wouldn't then have sent the invoice for the repair of *all* the damage to the other insurer. They thought it was for that reason the other insurer refused to pay for the repair of Miss P's car or Mr M's personal injury claim.

Meanwhile, in January 2015 Mr M was involved in another accident. At that point Southern Rock found Miss P had a non-motoring conviction she hadn't told it about when she took out the policy. It wouldn't have offered her insurance had it known, so it voided the policy. It kept the premium because it expected a claim from the other party after Mr M's accident.

Our adjudicator thought there was nothing to show Southern Rock had acted unreasonably. She thought the voidance was fair, but said Southern Rock should repay Miss P all her premiums, with interest, as the other party hadn't made a claim. She also thought £100 compensation was fair for not doing that at the right time.

Miss P and Mr L still thought Southern Rock was to blame for the other insurer not paying out on their claims, so the complaint was passed to me for review.

my findings

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

Southern Rock didn't have to deal with Miss P's claim at all. Her policy didn't cover what had happened. It referred her to Firm A, but the only alternative open to Miss P would have been to contact the other insurer herself.
I don't think Southern Rock caused any problem by the referral to Firm A in itself. Miss P hasn't said she wouldn't have used Firm A's services if she'd realised it wasn't part of Southern Rock. I think it's more likely than not she would have done.

It seems Firm A wasn't made aware of the old damage to Miss P's car. But I don't think it made any difference that the invoice it sent to the other insurer included *all* the damage to it. The other insurer had both cars inspected anyway, which was always likely to happen.

The inspecting engineer noted the old damage to Miss P's car and she confirmed what it was. There's nothing in his report that suggests the engineer thought Firm A or Miss P tried to 'pass off' the old damage as caused by the other party. The engineer simply didn't think the other party's car could have caused more than slight damage to the bumper. He thought Miss P's car was a write-off due to the damage around that area *before* the incident with the other party took place. In the light of that, the other insurer decided not to pay the claim.

I don't think there's any basis on which Southern Rock can be blamed for the claim not being paid. I can't see anything linking the other insurer's decision to the invoice sent by Firm A.

Miss P and Mr M have provided photos that show there were different levels of damage to the rear of Miss P's car at different times. As the adjudicator pointed out, it's always possible the engineer made an error. If that's the case, Miss P will need another expert view if she wants to challenge what he said. To date, it seems she hasn't been able to get one.

Turning to the voidance of the policy, Southern Rock's shown it wouldn't have offered cover to Miss P had it known about her non-motoring conviction. It asked her a clear question about convictions when she took out the policy. Miss P's reply wasn't accurate. I think it was entitled to treat the policy as though it never existed.

I can see why Southern Rock retained Miss P's premiums initially. It expected to have to pay a claim from the other party to Mr M's accident, although at first it told Miss P she'd get them back. It should have returned the money to Miss P once it closed the claim without paying anything to the other party. I agree that the premiums, plus interest, should be paid to Miss P. I also think £100 compensation for the disappointment of being given the wrong information and not getting her premiums back when she should have done is fair.

my final decision

My final decision is that I uphold this complaint. I require Southern Rock Insurance Company to do the following:

- Reimburse Miss P's premiums to her
- Add interest at 8% per annum to the sum above from the date the claim was closed to the date of settlement
- Pay Miss P £100 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 8 February 2016.

Susan Ewins
ombudsman