

complaint

Mr M, on behalf of “firm C”, complains that Markerstudy Insurance Company Limited unfairly declined a claim he made on firm C’s motor insurance policy.

background

One of firm C’s vehicles was involved in an accident on 11 April 2016. On the same day Markerstudy asked for a copy of the vehicle’s V5 registration document. Mr M sent a photo of it showing his son as the registered keeper. It was a term of the policy that all vehicles were owned by and registered to the firm. Markerstudy said it wouldn’t deal with the claim. Mr M said the actual V5 had been sent to the DVLA to transfer ownership from his son to firm C on 30 March 2016. The photo was taken then. Markerstudy didn’t accept that. As the DVLA changed the V5 on 21 April 2016, it thought Mr M had sent it off *after* the accident.

Our adjudicator didn’t think Markerstudy had acted reasonably. He took into account DVLA service standards for dealing with changes to vehicle registrations. The DVLA said it would normally take a minimum of two weeks to process a change. He thought it must have received the V5 by 7 April 2016. He also noted that Mr M’s accountant had written to say firm C had bought the vehicle.

Markerstudy said unless Mr M could prove the date on which the photo of the V5 was taken, it wouldn’t review its decision. As Mr M was unable to do that, Markerstudy wanted a review of the complaint by an ombudsman.

my findings

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

I can see why Markerstudy was suspicious about the circumstances of this claim. I think most of the evidence that the vehicle was bought by firm C prior to the accident is weak. The letter from Mr M’s accountant is very vague. The receipt’s signed by Mr M (the buyer) not by his son (the seller). I think that’s odd, and it contradicts what the accountant said.

I think it was fair for Markerstudy to ask for further evidence of the transaction. It seems Mr M didn’t provide any. He couldn’t show when the photo of the old V5 was taken, as he no longer had the camera that took it. In my view it should have been easy enough to copy a bank statement showing the £3,950 that was paid or received for the van. Mr M later told us he paid cash for the vehicle from a payment he’d received. He provided a typed sheet he said showed the cashbook transaction for the vehicle on 30 March 2016.

I think Mr M’s mostly assisted by the DVLA’s stated service standards. The DVLA says it usually takes between two and four weeks to process a change in registration. We asked it about this particular case. The DVLA wasn’t able to say when it received the V5 for amendment. But it said it had updated its records by 18 April 2016.

If the quickest turnaround in amending a V5 is two weeks, in this case the DVLA must have had the document by 4 April 2016. That would fit in with Mr M’s account of posting it on 30 March 2016. I’m sure on some occasions the DVLA must exceed its usual turnaround time and therefore process changes more quickly. But even by *halving* the stated optimum turnaround time of two weeks, it must have received the V5 by 11 April 2016.

I can see why Markerstudy thought Mr M may have sent the V5 off on or after that date. I think the circumstances as a whole were such as to cause it reasonable concern. Mr M wasn't really able to assist Markerstudy much with that. But if he hadn't sent the form off until the day of the accident, assuming it arrived the next day, according to the DVLA it wouldn't have processed the change until 26 April 2016 at the earliest.

On balance, I think it's fair to assume Mr M must have sent the form off before the date of the accident. Otherwise, the entire process - from posting the form right through to the DVLA's recorded change of ownership - must have taken place in less than one week. Whilst I think that's possible, it doesn't seem very likely.

I think Mr M's complaint should be upheld. I think Markerstudy should deal with the claim and reimburse any related expenses.

My final decision

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

- Deal with the claim, in line with policy terms and conditions
- Subject to evidence, reimburse Mr M for any expenses incurred by firm C in connection with the accident
- Add interest to the sum above, at the simple yearly rate of 8%, from the date of any payments to the date of settlement

HM Revenue & Customs requires Markerstudy to take off tax from the interest. It must give Mr M a certificate to show how much is taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M, on behalf of Firm C, to accept or reject my decision before 9 January 2017.

Susan Ewins
ombudsman