

complaint

Mr B's complained that Markerstudy Insurance Company Limited settled a claim against his commercial vehicle policy that wasn't his fault.

background

Markerstudy contacted Mr B to let him know a third party had claimed against his policy. The third party who claimed said their neighbour had seen Mr B's taxi hit their car. The neighbour had noted down his registration number and the third party called the taxi firm Mr B worked for, who'd confirmed it was one of their taxis.

Mr B said he hadn't been involved in the accident. He thought Markerstudy should have asked him for dash cam footage sooner to prove he wasn't involved.

Markerstudy arranged for an independent engineer to inspect Mr B's car. The engineer noticed some damage on the car. Markerstudy's own engineer reviewed the report and thought the damage was consistent with how the witness had described the accident.

Given the engineer's report and the witness statement Markerstudy didn't think it would be able to show it was most likely Mr B wasn't involved in the accident if the case went to court. So, it settled the third party's claim.

Mr B remained unhappy and brought his complaint to us. He said his premiums had gone up as a result of the claim.

Our investigator didn't recommend that Mr B's complaint be upheld. She thought Markerstudy had made a reasonable decision that was in line with the terms of the policy. Mr B didn't agree and asked for an ombudsman's decision.

my findings

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

We don't decide who's to blame for an accident, or whether a driver was involved, as that's the role of the courts. Instead I look to see if the insurer (in this case Markerstudy) made a fair and reasonable decision, in line with the terms and conditions of the policy.

The terms and conditions of Mr B's policy say Markerstudy can take over and defend or settle a claim against his policy as it sees fit. This might mean it makes a decision Mr B disagrees with, but the policy allows it to do so. My role is to see that it came to that decision fairly.

Markerstudy said it settled the claim as its engineer thought the damage was consistent with the reported accident. It had also been given a witness statement from the third party's neighbour who reported that he'd hit the other car in his taxi, before driving off.

I've seen the independent engineer's report and it noted there was damage to the bumper that had been repaired. I can see from Markerstudy's claim notes that its own engineer thought the damage was consistent with the accident.

Markerstudy had a witness statement saying Mr B was involved in the accident and I haven't seen anything to show he was elsewhere at the time of the accident. Markerstudy said it wasn't able to request dash cam footage because by the time the accident was reported and Mr B had got in touch, it would have been recorded over. I don't think Markerstudy should have acted differently here. And I think it carried out a reasonable investigation before reaching its decision.

I can understand Mr B's frustration at the impact this claim has had on his premium. But I think Markerstudy carried out a reasonable investigation into what happened. And I think it decided to settle the claim fairly and in line with the terms and conditions of the policy.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 6 February 2020.

Sarann Taylor
ombudsman