

complaint

Mr H's complained that Tradewise Insurance Company Limited refused to pay a claim on his motor trade policy.

background

Mr H bought a motor trade policy as he said he had a business buying and selling cars. He said he also had a fast food business. Mr H claimed to Tradewise after his brother (Mr N) had an accident, late at night on 30 November 2017, while driving a car on the policy. There were other passengers in the car and Mr N said he'd been going to view a car for the business. Tradewise looked into Mr H's claim and asked an accident investigator to interview both Mr H and Mr N.

Tradewise turned down Mr H's claim. It said the policy doesn't cover any car belonging to any of his employees. It said Mr N was named on the policy as an employee and it thought the car belonged to him and not Mr H. It said Mr H told it the car belonged to Mr N in a phone call. It also said Mr N had signed a witness statement saying the car belonged to him. The claim form also said the car belonged to Mr N and Tradewise had done a HPI check showing the last change in ownership was in 2014. It said Mr H hadn't been able to provide a V5 document showing he was the registered keeper of the car. As Tradewise didn't think the car belonged to Mr H it had voided it from the policy.

Mr H said Mr N had recently sold him the car. He said he'd sent the V5 to the DVLA on 7 November 2017 but not had it back. In January 2018 Mr H said his house had been burgled and thieves had taken some files that included the new keeper slip. He provided Tradewise with a police crime reference number for this. But a short while later Mr H found a copy of the new keeper slip in his emails and forwarded that to Tradewise. Mr H also said Mr N had an equal share in their motor trade business.

Tradewise still didn't agree to pay the claim. It also didn't think Mr N had been using the car for business purposes as the accident had happened late at night and the police report said the passengers smelled of alcohol. Tradewise also said Mr N hadn't been able to give the full details of his passengers which was unusual if he'd been travelling for business purposes. Mr H said this was unfair and the police report didn't have any mention of alcohol.

Mr H was also unhappy that Tradewise hadn't returned his car to him. He said the claim had been ongoing for a long time and it was affecting his business. He also said he'd been fined £80 due to Tradewise not telling the DVLA it had written-off his car. He brought his complaint about Tradewise turning down his claim to us.

Tradewise said it hadn't returned Mr H's car as it was a category B write-off and couldn't be returned back to the road. Mr H said he would have sold the car for parts.

Our investigator looked into Mr H's complaint. She said it was reasonable for Tradewise to have turned down Mr H's claim as he hadn't been able to show it was most likely he owned the car. She also thought it was reasonable for Tradewise to say it was unlikely Mr N was using the car for business. She thought Tradewise should have given Mr H his car back as it hadn't accepted his claim. But given the costs Tradewise incurred in dealing with Mr H's claim, she thought it was reasonable for Tradewise to have kept the £303.60 it had received for his car as its salvage value to off-set them.

Mr H 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. Having done so, I've decided not to uphold it.

In this decision I've only considered Tradewise having turned down Mr H's claim and voiding the car from the policy. I haven't considered whether Tradewise was reasonable in cancelling Mr H's policy as Mr H hasn't complained about that.

The terms and conditions of Mr H's policy say Tradewise won't pay any claims where the vehicle belongs, or is registered to, an employee. I can see from Mr H's statement of fact that Mr N's status is given as an employee. So even though he might receive an equal share of any profits from the motor trade business, I'm satisfied it's reasonable for Tradewise to consider him an employee.

ownership of the car

I've listened to the call where Mr H phoned Tradewise to get an update on the claim a couple of days after he'd made it. In that call Mr H says "*it was a vehicle belonging to my employee*". The witness statement Mr N completed says "*I am the main user...effectively I'm the owner*".

Mr H said Mr N filled in the claim form. The claim form asks "*is the vehicle registered to the policyholder*" and Mr N answered "*no*". Mr N then provided his own details when asked to provide the registered keeper's details.

Mr H said Mr N had been mistaken when he'd filled in the claim forms. And that they'd mentioned that Mr N had sold the car to Mr H while being interviewed by the investigator. They said the investigator told them they had to record Mr N as the owner as Mr H hadn't received the new V5 from the DVLA.

Mr H provided a copy of the new keeper slip with the handwritten date of 7 November 2017. And he's also provided a document from the DVLA dated 28 February 2018 that refers to him as being the new registered keeper of the car. But Mr H could have sent the V5 to the DVLA after the accident, so I don't think that's enough to conclude that it's most likely Mr N had sold the car to Mr H.

When taking all this into account I'm satisfied, on balance, it was fair and reasonable for Tradewise to find it most likely the car belonged to Mr N. And to turn down Mr H's claim on that basis. So I'm not going to ask Tradewise to pay Mr H's claim.

use of car

The policy defines an "*insured vehicle*" as one being used for motor trade purposes. Tradewise said it had concerns that the car wasn't being used for motor trade purposes. Mr N's accident took place at 11.30pm. He said he was on the way to view a car but wasn't able to provide full details of where he was going. He also had passengers that he wasn't able to provide full details for. I've seen a copy of the police report and while I understand Mr H doesn't think it mentions alcohol, I'm satisfied it says the passengers smelled of

alcohol. Based on this information I think Tradewise's view that it's likely the car wasn't be used for motor trade purposes was reasonable.

salvage

As Tradewise turned down Mr H's claim the salvage wasn't its property to dispose of. I appreciate Tradewise did this because it was a category B but it should have given Mr H the option of taking it back. I understand Tradewise sold the salvage for £303.60. But given Tradewise has incurred more than this in costs in dealing with Mr H's claim I think it's fair and reasonable for it to use the £303.60 to off-set the costs. So I'm not going to ask Tradewise to pay Mr H the salvage value of his car. I'm also not going to ask Tradewise to compensate Mr H for him being fined by the DVLA as the car was still Mr H's property at that point.

Overall, I think Tradewise made a fair and reasonable decision that was in line with the terms and conditions of the policy. So I'm not going to ask it to do anything else.

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 H to accept or reject my decision before 21 January 2019.

Sarann Taylor
ombudsman