

## **complaint**

Mr D is complaining about the amount of money Tradewise Insurance Company Ltd (Tradewise) has offered for his truck after he claimed off motor trade policy. He's also unhappy that it's disposed of the truck.

## **background**

Mr D had taken his truck to a garage for a regular check and he left it there over the weekend. While the truck was at the garage it was vandalised and had a number of parts stolen. He contacted Tradewise to claim for his loss under his motor trade policy. But Tradewise said that he wasn't covered because he'd left the truck at an address which wasn't covered under the policy.

Mr D is unhappy with Tradewise's decision to decline the claim. He's also unhappy that it disposed of the truck. Tradewise says Mr D said that he didn't want to keep the truck, so it disposed of it. But it said it would pay him the salvage value that it received for the truck - £1,386.

Our investigator partially upheld the complaint. He thought it was fair for Tradewise to not pay out on the claim. But he thought that it shouldn't have disposed of the truck. So he thought it should pay Mr D £200 in compensation. He also thought it should pay the storage bill Mr D incurred for having his truck stored for 20 days (£504).

Tradewise agreed to pay Mr D £200 in compensation. But it said that its engineer told Mr D to remove the vehicle from storage within 48 hours to prevent any further financial loss. But Mr D didn't do so for a further 15 days. So it was only willing to pay for 10 days of the storage.

Mr D didn't accept the investigator's opinion because he says he could've repaired the truck for around £1,000. And he says that it would've been worth around £5,500 at this point. He says that this whole matter has affected his health and family life. So he didn't think what had been offered was enough.

As Mr D didn't agree with the investigator, the complaint's been passed to me to decide. Since then, Tradewise has agreed to increase the compensation offer to £500. But Mr D still didn't think this was a fair offer.

## **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've decided to partially uphold this complaint and I'd like to explain why.

*was it fair for Tradewise to reject Mr D's claim for loss and damage to his truck?*

Mr D's truck was stolen from a garage that was doing a regular check on the vehicle. But the terms of Mr D's insurance policy say that Tradewise isn't liable for *"any accident, loss, damage, injury or liability caused, sustained or incurred in respect of any Insured Vehicle which is parked, kept on, adjacent to or within a radius of 400 metres to any Motor Trade Premises other than the Insured's or Partner's Home/Permanent Residence."*

As Mr D's truck was left at the garage to do the check on it, I'm satisfied that it was parked, kept on, adjacent to or within a radius of 400 metres to any Motor Trade Premises other than his home. So, while I naturally sympathise with the loss he's suffered, Tradewise was right to say that it's not covered under the terms of the policy.

However, this is a significant term of the policy. Given Mr D was a sole trader, I think this term needed to be highlighted to him. Mr D took the policy out through a broker, so it was the broker's responsibility to do this. However, Tradewise has created a "key facts" document for the broker to use to highlight what Tradewise thinks are the significant terms of the policy. And this says:

### ***"Significant exclusions***

*Any loss or damage whilst an insured vehicle is parked, kept on, adjacent to or within a radius of 400 metres of any commercial trade premises owned by or in the occupation of the insured (other than their private residence) or any motor trader including business partner."*

So I'm satisfied that Tradewise has highlighted this exclusion in its key facts. So, taking everything into account, I don't think it has to pay out the market value of his truck.

*should Tradewise pay the storage charges Mr D incurred?*

Mr D has given Tradewise an invoice for 20 days storage while his truck was kept at the garage where the vandalism took place. Tradewise says that it told Mr D to move his truck to free storage within 48 hours. But he didn't move it for around 15 days. So it was only willing to pay for 10 days of storage.

I've taken Tradewise's comments into account, but I think it should pay the storage invoice in full. It says that it told Mr D to move the truck to free storage, but it appears that its engineer left Mr D a voicemail asking him to do so. And there's nothing to show this was discussed again further. I don't know what Mr D was told exactly, but there's nothing to show that he was told he'd have to pay the storage if he didn't move the truck. And at the time, Mr D's was intending on keeping the vehicle's salvage.

Tradewise says that, had Mr D told it that he couldn't remove the truck, it would've arranged for this to be done. But I think Tradewise needed to discuss this with Mr D rather than waiting for him to contact it. The only time this appears to have been raised with him was in a voicemail. And I don't think this is enough.

Given this, I think Tradewise should cover the storage charges in full. If Mr D has already paid them, it should refund Mr D directly. It should also add 8% simple interest per year on this from when Mr D paid it until he gets it back.

#### *Tradewise's disposal of the salvage*

Tradewise only takes ownership of the insured vehicle when it pays its market value to the policyholder. So, in this case, Mr D was always the legal owner of the truck. I note that Mr D said initially he didn't intend to keep the salvage. But he wasn't aware Tradewise wasn't going to pay out on the claim at that point. And I haven't seen anything to say that he specifically told Tradewise it could dispose of the truck.

Mr D wanted the salvage returned to him after the claim was declined, but Tradewise had already disposed of the truck by then. Mr D has provided evidence to show that he could've repaired the truck for around £1,000. So I'm satisfied that he would've kept the truck and repaired it if Tradewise had given him the choice. And Tradewise has prevented him for doing this by unfairly disposing of the salvage.

Mr D wants Tradewise to pay him the market value for disposing of the truck at the time. But, given the extent of the damage, the salvage value was the truck's market value. Tradewise has shown that it received £1,386 from its salvage agent for the truck. On balance, I think this is what the truck was worth after the damage. So Mr D would be able to replace the truck with another truck in similar salvage value condition with this money. Tradewise needs to pay this to Mr D if it hasn't already done so.

#### *trouble and upset*

It's clear that this matter has caused Mr D a lot of trouble and upset. Mr D has explained the impact this matter has had on him. And I naturally sympathise with him for this. But I also think that a large part of this is an inevitable consequence of the actual incident and in finding out he's not covered under his motor trade policy. As I said, Tradewise was correct in saying that this loss isn't covered. So it doesn't have to compensate him for this.

However, it shouldn't have disposed of the truck. And this has meant Mr D wasn't able to repair it, which has caused him some trouble and upset. I think £500 in compensation is a fair amount of compensation for this.

### **my final decision**

For the reasons I've set out above it's my final decision that I partially uphold this complaint. Tradewise Insurance Company Ltd should:

1. pay Mr D £1,386 as the amount it received for the truck's salvage if it hasn't already done so;
2. pay the storage bill of £504 (including VAT) Mr D has given for his truck. If Mr D has already paid the bill, it should refund Mr D directly. It should also add 8% simple interest per year on this from when Mr D paid it until he gets it back. HM Revenue and Customs rules requires Tradewise Insurance Company Ltd to deduct tax from this interest. It should give Mr D a certificate if he asks for one; and
3. pay Mr D £500 in compensation for the trouble and upset that it's caused him by unfairly disposing of the truck.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 January 2018.

Guy Mitchell  
**ombudsman**