

complaint

Mr T complains that Royal & Sun Alliance Insurance Plc ("RSA") have refused his claim for fire damage to his boiler which he says was caused by its failure to properly install the boiler following a flood claim in 2008.

background

Mr T made a claim for flood damage to his home in 2007. RSA accepted the claim and undertook repairs to the property. Part of the repairs included replacing the boiler. In 2015 the boiler caught fire and had to be replaced. Mr T contacted RSA and said that the boiler caught fire because it hadn't been installed by a suitably qualified engineer nor had the warranty been registered.

RSA said it wasn't responsible for the boiler catching fire. Mr T asked RSA for evidence that the installation in 2008 had been carried out correctly and that the guarantee had been registered. Mr T subsequently discovered that the boiler hadn't been installed by a certified engineer nor had the guarantee been registered, so the boiler was without a warranty. He wanted RSA to reimburse him for the cost of replacing his boiler (£4,680).

RSA asked Mr T to send in his contractor's report on the fire damaged boiler. It also asked him if he'd had the boiler regularly serviced and why he'd disposed of it before it could inspect it. Mr T didn't provide RSA with this information. So RSA said that without the evidence to prove his allegations it wasn't able to reimburse him his costs. It gave Mr T some documentation relating to the installation and paid him £250 compensation for the delays in dealing with the matter.

Mr T complained to this service. He told us that he hadn't been given the necessary warranty documentation in 2008 and provided photographs which he said showed the poor workmanship used in the installation. Mr T said he was sure the boiler wouldn't have caught fire if it'd been properly installed by a certified engineer.

Our adjudicator investigated Mr T's complaint but didn't recommend that it was upheld. Based on the available evidence, he thought the boiler had been installed correctly and that the installation complied with building regulations. He didn't think the investigation report provided by Mr T could reasonably be taken into account given its author was unknown, it wasn't on headed paper and wasn't worded as though it'd been written by a professional engineer. Our adjudicator noted that Mr T had said the commissioning engineer in 2008 (who was different from the installation engineer) had told him that the boiler hadn't been installed correctly. But if this was the case, our adjudicator couldn't understand why the commissioning engineer would've been happy to issue the certificate.

Our adjudicator said that if Mr T obtained a report from the commissioning engineer he would expect RSA to consider it. He also thought the questions RSA had asked Mr T to answer, along with the evidence it asked him to provide, were all reasonable enough. Finally, he thought that compensation of £250 was fair and reasonable for the distress and inconvenience caused by the delays in dealing with his complaint.

Mr T disagreed with our adjudicator's conclusions. He said the point was that the engineer that installed the boiler wasn't certified. This meant he never had the benefit of the certification body's warranty for works done nor did he receive the manufacturer's warranty.

Our adjudicator considered what Mr T said but didn't change his mind.

Mr T then contacted the certification body directly. It told him that the installation of oil combustion appliances was classed as building work. As such, if the installation wasn't carried out by one of its certified engineers (which it wasn't) then it had to be carried out under a building control notice. It said, on completion of the works in 2008, Mr T should've received an installation certificate from the installer, a commissioning completion certificate from the commissioning engineer, and the manufacturer's information. It suggested that he contact his local authority building control department to see if it had any record of the work being completed under a building notice.

Mr T said that unless RSA could produce the required building control notice to show the installation complied with the relevant building standards and regulations, his complaint was completely justified and he should be fully reimbursed.

Our adjudicator contacted the certification body as well. He found out that the installation wasn't carried out by a certified engineer. So it should've been done under a building control notice which, it appeared, didn't happen. He put all this to RSA. He also said to Mr T that the fact it appeared the installation hadn't complied with the necessary regulations didn't mean his complaint should automatically be upheld. He said it would be necessary to establish a causal link between any non-compliant installation and the much later damage.

Mr T said there was. He also said that because the installation was non-compliant he hadn't received the necessary warranties. This meant the boiler wasn't under warranty when it caught fire.

Our adjudicator reviewed the complaint once again. He concluded that there wasn't enough evidence to show RSA's failure to comply with the boiler installation regulations in 2008, led to it catching fire in 2015. He did think though that RSA should make Mr T an additional compensation payment – a further £200 – for the way it handled his complaint. He thought RSA's misplaced insistence that it'd complied with regulations caused Mr T inconvenience because he'd been put to the trouble of contacting the certification body himself.

Mr T didn't accept our adjudicator's findings so the complaint was passed to me for a 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.

It's now clear that the installation was non-compliant. Despite this fact, in order for me to uphold the complaint, I would need to see a causal link between the non-compliant installation and the fire. In other words the cause of the fire was due to the fact the boiler wasn't installed six years earlier by a certified engineer. Although it will come as a disappointment to Mr T, I don't think there is sufficient evidence which would allow me to reasonably conclude that such a link was likely.

I can't ignore that there is no expert evidence to linking the non-compliant installation to the fire. Mr T has provided a report but, as he is aware, this isn't on headed paper and the author's name and qualifications don't appear on it. So I'm unable to verify the authenticity of the report. I can see that Mr T has never commented on these omissions despite them being

referred to by both RSA and our adjudicator. No other report has been forthcoming. I've seen the photographs but I don't think they illustrate that the non-compliant installation caused the fire. So, I don't think I can rely on an unverified report and inconclusive photographs in order to uphold this complaint. It wouldn't be reasonable of me to do so.

Six years between the installation and the fire. Mr T has been asked to show that he had the boiler serviced in this time but it appears to me he didn't do so. He says this is because he wasn't given any of the manufacturer's documentation and wasn't present for the installation so was never told about the need to service the boiler. He says it was unreasonable to expect his wife to take off the front panel of the boiler and inspect it. I agree with him and I don't think this is what our adjudicator was suggesting. But if there was no documentation provided it is unclear why it wasn't requested. Even if there wasn't, I don't see why this prevented Mr T from arranging to have the boiler serviced regularly.

Mr T says that the fact the boiler was installed by an un-certified engineer left him without any warranty – either for the works undertaken or the boiler itself. He says that if he'd had a warranty then the boiler would've been under it when it caught fire. Whilst I appreciate what Mr T is saying here, I don't think it assists me in upholding his complaint.

Firstly, I've not seen any evidence about the warranty – although I've seen mention of it being for six years. But I don't know for sure how long it would've run for or if it would've been valid at the time of the fire. I also can't reasonably be sure that the manufacturer would've replaced the boiler if it hadn't been installed by a certified engineer. Secondly, I don't think any lack of warranty assists me in concluding that a non-complaint installation caused the fire. If I thought there was enough evidence linking the non-complaint installation to the fire I would be requiring RSA to pay for the replacement boiler regardless of any lack of warranty.

A non-compliant installation (in the sense that the installation wasn't carried out by an engineer certified by the certification body) isn't the same as an incorrect or faulty installation. Just because the engineer wasn't certified, it doesn't automatically follow that he didn't install the boiler correctly and that this is what caused the damage, as Mr T has said.

So, it's possible that an un-certified engineer installed the boiler correctly and the fire was caused by some other means. The point being that, there just isn't enough evidence which allows me to conclusively say what was likely to have happened. This is one possible scenario, Mr T's is another. But in order for me to reasonably uphold the complaint I would need to be persuaded that the non-compliant installation more likely than not caused the fire. And I haven't been.

RSA paid Mr T compensation of £250 for the delays in handling his complaint up to the end of 2015. I think, in the circumstances of this complaint, that payment was fair and reasonable for the delays it caused him. However, since our involvement, RSA has caused Mr T further inconvenience. It has insisted throughout that the boiler was installed by a certified engineer. We now know this wasn't the case. We know this because Mr T was put to the inconvenience of contacting the certification body and finding out. I think a further payment of £200 is warranted for the trouble Mr T was put to. This brings the total compensation payment RSA should pay to Mr T to £450.

my final decision

My final decision is that I uphold this complaint in part. I require Royal & Sun Alliance Insurance Plc to pay Mr T further compensation of £200 for the inconvenience it caused him. If it hasn't paid yet paid him the £250 it said it would in its final response letter it should do so now.

Royal & Sun Alliance Insurance Plc must pay the total compensation within 28 days of the date on which we tell them Mr T accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision until the date of payment at 8% per year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 1 December 2016.

Claire Woollerson
ombudsman