

complaint

Mr P has complained that Elite Insurance Company Limited voided his car insurance policy (so cancelled it as if it had never existed) and therefore didn't consider a claim he made when his car was stolen.

background

I've attached my provisional decision from November 2015 where I set out why I was thinking of upholding Mr P's complaint. I had invited Mr P and Elite to provide any further submissions they may wish to make before I reached a final decision. Elite has made some additional comments that I will address below.

my findings

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

Mr P says that he lives with his uncle and so he took out his car insurance at this address. His car was then stolen from outside his mother's house. Elite declined Mr P's claim on the basis that he was actually living at his mother's house and so had misrepresented this information when he took out the policy. It said that it would not have insured Mr P if he'd applied under his mother's address.

My provisional decision below explained why I am now persuaded that Mr P was living at his uncle's address at the time he took out the policy. Elite has responded to my provisional decision by highlighting particular wording in the policy document. It's a section about how the policyholder should let the insurer know of any changes that may affect their cover. One of the examples given is if: *'You change your address or the address where the vehicle is normally kept'*.

Elite says that Mr P hasn't kept to the policy agreement because he failed to update his address and where the car is being kept overnight. I'm not persuaded by this argument. Mr P had registered the insurance to his uncle's address which is where he was living, so he had no reason to update the address. And his car was normally kept outside his uncle's house, where he was living. He was merely visiting his mother when his car was stolen.

I haven't been presented with any evidence to make me change the view I reached in my provisional decision. Therefore it follows that I uphold Mr P's complaint.

my final decision

My decision is that I uphold Mr P's complaint. Elite Insurance Company Limited should:

- Consider Mr P's claim on the basis that he used his correct address when taking out the policy.
- Remove any record of the voidance from all internal and external databases.
- Any premiums that were refunded to Mr P can be deducted from the value of any claim settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 14 January 2016.

Carole Clark
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr P has complained that Elite Insurance Company Limited voided his car insurance policy (so cancelled it as if it had never existed) and therefore didn't consider a claim he made when his car was stolen.

background

I've attached my first provisional decision from September 2015 where I set out why I wasn't thinking of upholding Mr P's complaint. I had invited both Mr P and Elite to provide any further submissions they may wish to make before I reached a final decision. Mr P has provided some further information that has currently persuaded me to change my mind. So I'm now thinking of upholding Mr P's complaint and I'll set out my reasons for this below.

my provisional findings

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

The crux of this complaint is about where Mr P was living when he took out his car insurance in February 2014. When I first looked at the complaint, I was somewhat persuaded by Mr P's personal testimony that he was living at his uncle's address, which is the address that he registered the car insurance to. Having said that, there was a lack of tangible evidence for this. Most of the documentation that Mr P sent in that was addressed to him at his uncle's address post-dated the sale of the insurance (although there was a bank account that had been set up at this address prior to the date in question).

So in my provisional decision I decided, on balance, that there wasn't enough evidence that Mr P was living at his uncle's address in February 2014. However I did say that if Mr P could provide more compelling evidence, I might be persuaded to change my mind.

Mr P has obviously been keen to provide as much evidence as he could to support his case and has sent in a lot more paperwork. Some of it, although addressed to him at his uncle's address, doesn't contain dates, and so is not particularly helpful. However he has produced a letter from his ex-employer and a letter from a pension broker that seem to confirm that he was living at his uncle's address prior to February 2014.

Elite's own investigations had uncovered that Mr P was still on the electoral register at his mother's address and that he had a number of lines of credit at his mother's address. As well as his driver's licence and car registration documents being registered there. Mr P's explanation for this was twofold: that he just hadn't bothered to get his address changed with a number of organisations, and that he deliberately had some correspondence sent to his mother's address so that she could assist him with his paperwork (due to his dyslexia). He said he registered his car to that address because he wanted it to match the address on his driving licence – which he hadn't gotten around to changing.

Looking at everything afresh, together with the new evidence that has been provided, I'm now of the view that Mr P had moved to live with his uncle. It's consistent with him still having strong links with his mother and visiting her home on a regular basis. And I accept that he didn't bother to change his address on most things. But he did update his address in relation to things that he would have thought were important, such as his job, his pension and his bank account.

It follows that my provisional decision is that Mr P's complaint should be upheld.

my second provisional decision

My second provisional decision is that I intend to uphold Mr P's complaint. Elite Insurance Company Limited should:

- Consider Mr P's claim on the basis that he used his correct address when taking out the policy.
- Remove any record of the voidance from all internal and external databases.
- Any premiums that were refunded to Mr P can be deducted from the value of any claim settlement.

Carole Clark
ombudsman