

complaint

Mrs H complained about how Royal & Sun Alliance Insurance Plc (“RSA”) was handling her home insurance claim.

background

Mrs H lodged a claim for flood damage to her property. When she complained to the Financial Ombudsman Service – nearly three years later – a number of repairs, reinstatement works and snagging items remained outstanding. A meeting was held between Mrs H, RSA and RSA’s representatives. A way forward was agreed in order to resolve a number of the issues. However, one issue remained outstanding.

About a year into the claim a problem was identified by RSA’s representative with respect to the boiler and a gas tank. The two items had not been damaged by the flood, but because of a change in legislation, where they were positioned meant they did not meet current regulations. The gas could not therefore be reconnected once the repairs had been completed. In effect, the radiators and pipes (which were damaged by the flood) could be repaired but they could not be connected.

Due to the length of time the claim had been on-going, Mrs H felt RSA should fund the cost of rectifying the problem. RSA accepted the service Mrs H had received was unacceptable. However, it said the cost of rectifying the problem with the boiler and gas tank was not covered by the policy. It nevertheless offered Mrs H £1,500 compensation for the distress and inconvenience caused.

Two of our adjudicators reviewed this complaint and both concluded that it should be upheld. In summary, they felt that although the boiler and tank might not strictly be covered by the policy – as neither was damaged by flood – RSA should pay to replace them as the repair works could not otherwise be completed or signed off. They also made the point that RSA not paying for them would leave Mrs H in a worse off position (as before the flood she had a fully working heating system).

RSA rejected our adjudicators’ conclusions. It questioned why it was being asked to cover the costs for the boiler and tank when our adjudicators both agreed they fell outside the cover provided by the policy. RSA also pointed out that it had agreed other costs (eg light fittings, windows) given the difficulties Mrs H had faced. It also questioned whether or not Mrs H had actually arranged for the boiler/tank to be replaced and whether or not she had paid the contractor.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

RSA’s liability under the terms of the policy was to pay the cost of repairing or replacing damaged parts of the building. However, the policy specifically stated that RSA will not pay for the cost of complying with building regulations, local authority or other statutory requirements if they relate to undamaged parts of the building.

It does not appear to be in dispute that the boiler and tank were undamaged. It also seems clear that the boiler and tank needed to be replaced and/or moved in order to comply with current regulations. There is therefore a strong argument supporting RSA's position. However, when deciding a complaint I can look beyond the strict contractual or legal position to what is fair and reasonable. I therefore need to decide whether RSA's reliance on the policy terms and conditions was fair and reasonable.

RSA elected to settle this claim by repairing the damage caused by the flood. It must therefore ensure that the repairs carried out are effective and lasting. My understanding is that although the radiators and pipes have been repaired, or are able to be repaired, they could not be used if the boiler and tank remained as they were. Accordingly, the repair is ineffective. I also agree with our adjudicator that this leaves Mrs H in a worse position than before the flood.

For these reasons, I consider the fair and reasonable outcome in this case to be for RSA to pay for the boiler and tank to be replaced and/or moved in order to comply with current regulations. This will ensure that the repair will be effective.

I do not consider the arguments RSA has raised in defence of its position persuasive. I am aware that RSA has agreed to pay other costs. However, I am not persuaded that these were strictly for Mrs H's benefit; they were required due to the length of time the claim had been on-going – which was essentially down to the way the claim had been handled.

I also do not think it matters – at least in determining whether or not RSA should pay for the boiler and tank – whether the works have actually been completed or not. Irrespective of when they were/are done, it remains that they are needed in order for the repair to be effective.

RSA also argued that it was not fair for it to pay for the boiler/tank as their non-replacement did not hold up the claim. Again, I do not think this is relevant to my determining whether it is fair for RSA to fund the cost of replacing and/or moving the boiler and tank.

Finally, RSA questioned the fact that our adjudicators had asked it to pay interest to Mrs H from the date of the claim. Whenever I make a financial award against a business to reimburse a consumer for costs they have incurred I always require it to pay interest on top of the award. I therefore conclude that interest should be payable in this case. However, I think it should be payable from the date Mrs H paid the contractor to replace or move the boiler and tank.

my final decision

My final decision is that I uphold this complaint.

I require Royal & Sun Alliance Insurance Plc to pay for the cost of replacing or moving the boiler and gas tank so that it meets current regulations. If this payment is made to Mrs H in reimbursement of costs she has already incurred in this respect, I also require Royal & Sun Alliance Insurance Plc to add interest of 8% simple per annum to the settlement, calculated from the date Mrs H paid the relevant contractor.

I make no other award against Royal & Sun Alliance Insurance Plc.

Paul Daniel
ombudsman