

complaint

Mr H has complained that Markerstudy Insurance Company Limited refused to pay a claim on his motor insurance policy.

background

Mr H bought a van in a private sale and insured it with Markerstudy. Shortly afterwards the van was stolen. He claimed on his policy. It turned out that the van had been cloned. That means the van was possibly a stolen vehicle and someone had changed its identifying marks, such as its registration plate, to match another van of a similar model.

Markerstudy refused Mr H's claim. It said that it wasn't satisfied he had acted reasonably and in good faith at the time he bought the van. Mr H didn't think that was fair and brought his complaint to us. One of our adjudicator's looked into Mr H's complaint. She didn't think Markerstudy had dealt with the claim fairly. So, to put things right she said that Markerstudy should:

- Pay the full market value of the van as if it were not cloned (less any applicable excess).
- Add 8% simple interest to its settlement from the date of the theft until the settlement is made.
- Pay Mr H £300 compensation for his distress and inconvenience.

Markerstudy didn't agree with our adjudicator's assessment so the complaint's been passed to me to decide.

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'm going to uphold it.

In the course of Mr H's claim and complaint both he and Markerstudy have made a number of detailed points. But, while I've considered everything that's been said, in this decision I will focus on what I see as being the key issues following our adjudicator's assessment.

Before Mr H bought the van he ran a car check - similar to an HPI check - on the van which didn't raise any concerns. His mum had corresponded with the seller's father and they arranged for Mr H to view the van. At that meeting the van's seller provided Mr H with a copy of the van's V5 (log book) which matched the van's and the seller's details. And, as the seller didn't have a pre-prepared sales receipt, they improvised a sales receipt using the V5. And I don't think that, at that time, Mr H had any reason to be concerned the van's sale wasn't genuine. The seller had given him the appropriate documents and things seemed to be in order.

Markerstudy's pointed out some concerns. In particular that the seller had asked for payment in cash. But a request for a cash sale isn't totally unreasonable and the seller had provided an explanation for why they wanted cash. And there can be numerous reasons why someone would prefer a cash sale. So, I don't think that should have made Mr H doubt the validity of the sale.

Markerstudy's also said that Mr H did the deal for the van in a car park, rather than at the seller's home. But the car park was a private gated area associated with the seller's address on the V5. Users of the car park needed a code to operate the gates. A code that the seller gave to Mr H. So, I don't think Mr H had any reason to ask to go inside the building. And I don't think Mr H would have had any reason to know that the address might not be the seller's residential address.

Markerstudy's also said that the price of the van, which was cheaper than might have been expected, should have caused Mr H to doubt that the sale was genuine. But Mr H has said that he understood he might get the van for less because it was a private sale and so not subject to VAT. And also because the seller was looking for a quick sale. And I don't find that the price was so far below its list price that it should have rung alarm bells for a perspective buyer such as Mr H.

Markerstudy added that Mr H should have been more stringent about who he was buying the van from because the seller only had one key. The seller told Mr H that he could order another key from the manufacturer and Mr H negotiated a cheaper sale price to allow for the costs involved in that. And I'm satisfied that, at that point, Mr H fully believed the sale was genuine. And he hadn't identified that the significance of a missing key was that the seller - or an accomplice - could then use that key to steal the van back from him. I think if Mr H had realised that was a possibility he wouldn't have handed over the cash to buy the van.

Also, Markerstudy pointed to some actions advised by the DVLA on its website for people buying vehicles. It's suggested that as Mr H didn't follow all the DVLA guidance then he didn't do enough. But I disagree. As I've said above, I think Mr H took reasonable steps to check the sale was genuine. He looked into the van's history using a car check system and the seller provided the van's documents which certainly looked genuine. And the other details the seller had provided all seemed to match up. So, I'm satisfied that Mr H acted in good faith and he reasonably believed the sale was legitimate.

Markerstudy accepted a premium to cover the risk of Mr H's van being stolen. And that's what happened. So, I think it's fair that Markerstudy should settle Mr H's claim for the market value of his van at the date of loss. It should add simple interest to its settlement at a rate of 8% a year from the date of the theft until the date Markerstudy pays him. Also, as this matter has been a source of distress and inconvenience for Mr H, I think it's fair that it pays him £300 compensation to address that.

my final decision

For the reasons set out above I uphold this complaint. I require Markerstudy Insurance Company Limited to:

- Settle Mr H's claim for the full market value of his van (subject to an applicable excess) and add simple interest at a rate of 8% a year to its settlement from the date of the theft to the date Markerstudy pays him¹.
- Pay Mr H £300 compensation to address his distress and inconvenience. It should pay the compensation within 28 days of us telling it that Mr H has accepted my final

¹ If Markerstudy considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr H how much it's taken off. It should also give Mr H a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

decision. If it pays later than this, it must also pay interest on that amount from the date of my final decision to the date of payment at a rate of 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 13 September 2020.

Joe Scott
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