

complaint

Mr Z's complaint concerns UK Insurance Limited's ("UKI") decision to reject a claim he made under his travel insurance policy following a theft at his holiday accommodation. The rejection was on the grounds that there was no evidence of violent and forcible entry to the property and so UKI said the claim was excluded by the policy terms.

background

Mr Z holds a travel insurance policy as a benefit of a packaged bank account. Whilst Mr Z and his wife were out for a meal on holiday, thieves obtained entry to their holiday accommodation and a number of items were stolen. Mr Z reported the loss to the local police and upon his return to the UK he made a claim under his policy for the stolen items.

UKI rejected the claim. It noted the police report did not record force or violence being used in the theft and it said Mr Z had told its agents that there was no evidence of violent or forcible entry to the accommodation. Therefore, UKI said the claim was excluded by the following policy term:

"What you are not covered for (exclusions)

- c. *Valuables and Personal Possessions which are kept in your locked personal accommodation or safety deposit box and force and violence has not been used to gain entry to your locked personal accommodation or safety deposit box."*

Mr Z appealed. He repeated he believed the thieves had gained entry to the property through wooden shutters and a locked window, both of which were ajar when he and his wife returned to the accommodation, and the curtain on the pole was on the floor. He explained he had secured the window before reporting the theft to the police as the window was street level facing and he had wanted to prevent any further theft. He also provided evidence from the owner to show that the window locks had been replaced a few days after the theft.

The adjudicator recommended the complaint be upheld. He was persuaded that the open window and displacement of the curtain rail was sufficient evidence that force and violence had been used to obtain entry to the property. He was satisfied Mr Z had taken full precautions to protect his property.

UKI disagreed. It said it did not dispute a theft had taken place. However, it maintained its rejection of the claim on the grounds that there was no evidence that force and violence had been used to gain entry to the property.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I consider this complaint should succeed.

The issue I need to decide is whether UKI was reasonably entitled to reject Mr Z's claim. I note UKI does not dispute that a theft occurred at the property. The issue for UKI is the lack of evidence of violent and forcible entry as required by the policy terms.

I acknowledge the police report provided by Mr Z does not record that force or violence was used to obtain entry. However, Mr Z has consistently said that following the theft he found a previously locked window and shutters ajar and a curtain on the pole on the floor. I have no reason to doubt his recollections. His explanation that he re-secured the window and the property before reporting the loss to the police is entirely plausible given that he had just suffered a theft at the property. As his camera had been stolen, I accept that Mr Z could not take any photographic evidence of the property as he found it on his return.

The invoice provided by the property owner evidences that the locks to the property were replaced, even if just as a precautionary measure. I consider this invoice shows that the owner was concerned enough by the theft at the property to ensure security measures were tightened. I do not consider that the locks being replaced suggests that a third party used their key to gain unauthorised access to the property as the invoice states the lock change was as a precautionary measure.

I am satisfied that, on the balance of probabilities, the locked window was opened by force. Based on the circumstances, I consider that a third party gaining unauthorised entry to a locked property with the intention of taking property that is not legally their own can reasonably be classed as the use of force. In my view, obtaining entry to Mr Z's accommodation by opening a locked window and pulling down a curtain pole in the process is sufficient evidence that force and violence was used. Overall, I do not consider UKI was reasonably entitled to rely on the exclusion to reject Mr Z's claim.

my final decision

My final decision is that I uphold this complaint. I direct U K Insurance Limited ("UKI") to reconsider Mr Z's claim, subject to the remaining terms and conditions of the policy and any applicable limits. To any settlement paid it must add interest at a gross annual rate of 8% simple from the date of claim until the date of settlement.

Nicola Sisk
ombudsman