

complaint

Mr V complained about the way Tradewise Insurance Company Limited settled a car insurance claim he made following an accident in December 2016.

background

Mr V said that in heavy traffic he indicated right to move into the next lane. As he edged forward the car on his right did too and as Mr V moved right he caught the other car. Mr V said he had enough space to move right so he felt the other driver must have moved forward, reducing the amount of space he had in which to move into. He said it was 'debateable' who was to blame.

The other driver denied liability for the accident. He told Tradewise that Mr V's car was next to him and that Mr V was indicating to move into the lane he was in. He said that when Mr V moved lanes he clipped the front wing of his car.

Tradewise said that as it was Mr V who was changing lanes he had the responsibility to ensure it was safe to do so. It also said there weren't any witnesses to suggest the other driver was moving at the time. It therefore felt it was fair to hold Mr V liable for the accident given its experience of how the courts would decide liability.

my provisional findings

I issued a provisional decision which explained why I didn't think the complaint should be upheld. In summary, I said:

liability

- both drivers provided almost identical descriptions of how the accident occurred in that it was Mr V who changed lanes
- Tradewise decided to settle the other driver's claim in full as it felt the court would blame Mr V as he changed lanes
- I thought it was fair for Tradewise to work on the basis that the duty of care was with Mr V to ensure the way was clear before he changed lanes
- so I was satisfied that Tradewise treated Mr V fairly when it decided to settle the other driver's claim.

legal expenses insurance

- the policy only provided legal expenses cover in respect of costs incurred defending manslaughter or reckless/dangerous driving causing death proceedings
- the policy had some uninsured loss recovery cover. But I thought this cover was dependent on the other driver being held at least partly liable for the accident
- so, as I had concluded that Tradewise acted fairly in agreeing to settle the other driver's claim in full, I thought it had also acted fairly in not providing any uninsured loss recovery cover.

hire car insurance

- Mr V had separate hire car insurance provided by Tradewise. The policy provided cover for a hire car whilst Mr V's car was being repaired following an accident

- but Mr V never made a claim under the hire car policy. And Tradewise couldn't provide benefit under the policy or pay a claim unless a claim had been made
- so I wasn't persuaded that Tradewise treated Mr V unfairly by not providing him with a hire car.

responses to my provisional decision

I haven't heard further from Tradewise.

Mr V disagreed with my decision. He repeated that he would have had sufficient space to move into if the other driver hadn't moved forward. He also referred to the fact the other driver texted him the following morning to ask for £750 and to forget about the matter.

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 V hasn't provided anything new. I'm not therefore going to change my mind.

It may be the case that Mr V would have been able to safely change lanes had the other driver not moved forward. But the other driver was entitled to move forward in the lane they were in. And it doesn't change my opinion that it was fair for Tradewise to work on the basis that the duty of care was with Mr V to ensure the way was clear before he changed lanes.

I didn't mention Mr V's point about the other driver texting him the following day in my provisional decision because I didn't think it made any difference to the outcome of the complaint. What I'm deciding here is whether or not Tradewise treated Mr V fairly when it decided to settle the other driver's claim. And the other driver texting Mr V had no bearing on that. The other driver texting Mr V doesn't change the circumstances of the accident. Mr V still changed lanes when there wasn't sufficient room to do so.

my final decision

For the reasons outlined above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 20 November 2017.

Paul Daniel
ombudsman