

## **complaint**

Miss S complains that Southern Rock Insurance Company cancelled her motor insurance policy from the start (voided it) as it said she had misrepresented information important to it. Miss S is represented in this matter by her lawyer, Mr S.

## **background**

Miss S was involved in a collision with a cyclist and a claim was made. Southern Rock then voided the policy as it said Miss S wasn't the car's registered keeper as she had stated and she had no insurable interest in the car. Southern Rock is now pursuing Miss S for its outlay under the Road Traffic Act for the cyclist's claim. Miss S said the misrepresentation was an innocent mistake and her health has been affected by the decision.

Our investigator didn't recommend that the complaint should be upheld. He thought Southern Rock had asked a clear question about whether Miss S was the car's registered keeper and owner. He thought she'd answered this incorrectly. He thought Southern Rock wouldn't have offered cover if it had been given the correct answer. So he thought it had fairly voided the policy and declined Miss S's claim.

Mr S replied that Miss S didn't have the means to repay Southern Rock. He said she'd been 99% accurate in her application. He said she'd not registered the car in her name due to family stress at the time. He said Southern Rock didn't tell Miss S that it had voided the policy, but that it invited her to renew her policy which he thought showed that it accepted Miss S as the car's legal owner.

## **my findings**

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

I was sorry to hear about Miss S's ill health. I can understand that this matter has had a serious impact on her. I can see that she says she didn't intend to make a misrepresentation.

Where a complaint arises from misrepresentation of information important to an insurer we consider the relevant legislation. We look to see that the insurer asked a clear question when the policy was taken out. We check that the information given would affect whether a policy was offered. And we check whether the informant has acted carelessly or deliberately in making the misrepresentation.

Southern Rock said Miss S's brother bought the car on 13 July 2013. Miss S took out insurance through a comparison site the following day to start on 15 July 2013. She was asked by the comparison site if she was the car's registered keeper and legal owner, and she answered "yes". The pop up guidance note said this information could be obtained from the car's registration document (V5). I think if Miss S was unsure about this she could have contacted Southern Rock for further guidance. But I can't see that she did this.

I can see on the policy schedules for 2013 and 2014 that Miss S is recorded as the car's registered keeper. She was also asked to check and correct any errors, but I can't see that she did this when she first took out her policy or at its renewal.

Miss S was involved in the collision with the cyclist on 11 July 2014. The policy renewed on 15 July 2014. Southern Rock's investigator met her 30 July 2014 and Miss S said her brother was the car's registered keeper. Miss S stated this on an accident form dated the following day. The car's V5 wasn't changed to her name until September 2014.

So I think Miss S answered the question about the car's registered owner and keeper incorrectly. I think Miss S was aware that she wasn't the car's registered keeper. And I think she didn't take sufficient care in answering the question about this. I can't see that Southern Rock accepted Miss S as the car's legal owner, as Mr S stated.

Southern Rock said that if Miss S had given the correct information when she took out her policy, it would have declined cover. It's provided an extract from its underwriting guidelines to show this. So I'm satisfied that Southern Rock wouldn't have offered cover if Miss S had answered the question correctly.

Southern Rock voided the policy from its start on 15 July 2013 and declined the claim. It retained the premiums as it said Miss S hadn't taken reasonable care to answer the question about the car's keeper and owner correctly. I think it was entitled to do this under the relevant legislation. I can see that the retained premium was deducted from the outlay Southern Rock is seeking from Miss S. I think that's fair and reasonable.

So I think that under the relevant legislation Miss S made a misrepresentation of information important to Southern Rock. I think she didn't take sufficient care when answering its question about the car's registered keeper. I think Southern Rock has justified its decision to void the policy, decline the claim and retain the premiums. So I can't say it's done anything wrong or require it to change its decision.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 15 June 2019.

Phillip Berechree  
**ombudsman**