

complaint

Mr S is unhappy that Domestic & General Insurance Plc won't meet a claim for accidental damage to his mobile phone.

background

I issued my provisional decision on this matter in November 2015, an extract from which is copied below:

"Mr S has a credit card account that offers an extended warranty for up to three items paid for using that account. Mr S bought a mobile phone using his credit card and followed the online system to register it for an extended warranty. He entered the serial number of the phone and was issued with cover. However, as there was no option for mobile phone to select when registering the phone, Mr S selected the option that referred to portable audio equipment. The policy was therefore issued on this basis.

Some time later, Mr S submitted a claim for accidental damage to the phone and is unhappy that Domestic & General refused the claim and said that mobile phones are specifically excluded from cover. The bank documentation lists the appliances that could be covered and this doesn't include mobile phones. It says that, as the online process doesn't have a mobile phone option, Mr S obtained the confirmation of cover by misrepresentation.

Mr S says that Domestic & General had as much information as possible, and should have told him mobile phones aren't covered before it issued the policy documents. If he'd known this wasn't covered, he'd have added the phone onto his household contents insurance.

One of our adjudicators looked into the case. He thought it should be upheld on the basis that the key facts document didn't make it clear enough that mobile phones weren't covered. The adjudicator thought that Mr S would probably have got insurance elsewhere, if he'd known this and so recommended that Domestic & General should meet the cost of the repairs to Mr S' phone.

Domestic & General didn't agree and so the matter has been referred to me.

my provisional findings

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

Mr S says that the documents don't make clear enough that mobile phones wouldn't be covered under the extended warranty provided by his credit card. However, in my opinion there is nothing in the documentation that I've seen that would imply that mobile phones would be covered.

The cover letter enclosing the terms and conditions to Mr S says: "your portable audio equipment" is now covered. Nothing in the terms suggest cover includes for mobile phones – it lists various types of product that might be covered none of these are ambiguous such that a reasonable assumption would be that it would cover a phone. There is then also a specific exclusion of mobile phones.

The adjudicator did ask Domestic & General for more information about the registration process, which it hasn't provided. It would have been helpful if it had but I think even on Mr S' account, I don't think he was reasonable to assume his mobile phone was covered, without making further enquiries. Mr S says that he was able to register the phone and therefore this means it was covered and it was then for Domestic & General to notify him otherwise. However, in my opinion the fact there was no option to put that it was a mobile phone should have alerted Mr S to the fact that it wouldn't be covered. I don't think it was a reasonable assumption to make that his phone was covered, when he had to describe it as 'portable audio equipment'.

I therefore don't agree that Mr S was misled into thinking his mobile phone would be covered. But, even if I agreed that Domestic & General should have known that he was registering phone and then told him it wouldn't be covered (which I don't), I still don't think there is enough evidence to be able to uphold the complaint.

Mr S has said that he would have included his phone for cover under his contents policy for an additional premium, if he'd known it wasn't covered by Domestic & General. But most household contents policies would cover a phone for accidental loss and theft but not always for accidental damage. It therefore seems to me that Mr S is unlikely to be in any different position than he is now.

my provisional decision

I don't intend to uphold this complaint against Domestic & General Insurance Plc."

developments

I invited both parties to respond with any further information or arguments they wanted considered before I issued my final decision.

Mr S has responded and is disappointed with my findings. He has made the following points:

- He disputed that there is an exclusion of mobile phones in the policy terms.
- He doesn't agree that home contents policies don't normally cover accidental damage to a mobile phone – he researched this and his home contents policy would have provided cover for accidental damage to personal possession.
- He says again that he "was able to register seamlessly" his mobile phone for cover and was therefore certain that his phone was covered.
- Why else would Domestic & General send a legally binding insurance contract confirming the same?

Our adjudicator pointed out the exclusion to Mr S in the insurance terms and he accepts now that mobile phones are excluded from cover but says he wasn't aware of this when he registered the phone for cover and this exclusion wasn't included in the contract made by Domestic & General with him at that point.

Domestic & General has also responded and confirmed it has nothing further to add.

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 had decided that it wasn't reasonable for Mr S to think that his mobile phone was insured with Domestic & General because nothing it had provided to him would suggest that cover was available for phones and in order to be able to register the phone, he had to describe it as audio equipment.

Nothing new has been provided to me that would lead me to change my mind about this. Mr S says again that he was able to "seamlessly" register his phone for cover, but I disagree. He had to describe it as audio equipment; and this is what the letter confirming cover told him he was covered for. I therefore remain of the opinion that it wasn't reasonable to consider that this meant his phone was covered.

This is sufficient basis to reject this complaint, however, I also thought that it was unlikely in any case that Mr S would have been able to make a successful claim for his damaged phone if he had arranged for it to be covered under his home insurance.

Mr S has provided a copy of his home contents policy, which shows that accidental damage to his mobile phone could be covered. However, this doesn't change the outcome of this complaint because although Mr S didn't take this cover because he thought the phone was covered by Domestic General, this mistake wasn't due to anything that Domestic General did wrong.

my final decision

I don't uphold this complaint against Domestic & General Insurance Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 15 January 2016.

Harriet McCarthy
ombudsman