

complaint

Mr K is unhappy with the legal expenses policy arranged for him through his brokers, Tutton Burnell & Co ('Tutton Burnell').

background

Mr K is a landlord who purchased what he believed to be legal expenses cover to protect himself against legal problems with his tenants. He arranged this cover through a broker at Tutton Burnell. Tutton Burnell then went to an insurance intermediary to obtain the policy.

Mr K got involved into a dispute with a previous tenant. He needed to defend the claim and so got in touch with his insurer. It was at this point he realised that his policy didn't provide him cover as a landlord. The cover he had in place offered him protection as a tenant and not a landlord. He says that's not what he wanted.

Tutton Burnell say they were clear from the outset what level of cover Mr K was looking for. They say this had been explained to the insurance intermediary they'd obtained it from. Tutton Burnell also say they'd queried one of the documents that'd been received from the insurance intermediary as it listed Mr K as a tenant and not a landlord, but the intermediary had amended it.

Our adjudicator felt that Tutton Burnell should've looked more closely at the policy documents and made sure the level of cover was appropriate. She didn't think it fair that Mr K lose out because he had the wrong type of cover. She said that Tutton Burnell should cover the claim, if it turns out his particular claim now would have been met if the correct policy had been put in place.

Tutton Burnell disagreed with the adjudicator and so the Mr K's complaint has been passed to me for a final decision.

my findings

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

From what I've seen, it seems to me that Mr K should've been offered legal expenses insurance cover which protected him as a landlord. This would normally include cover that would apply in some disputes, but not all, with his tenants. But for one reason or another, this didn't happen and now Mr K finds himself in a difficult position without cover that would have been helpful for him to have in place.

I've seen that Mr K had a different legal expenses policy, from February 2012 until December 2013, which provided him with certain elements of cover as a landlord. But the policy changed to a new one at the end of 2013 when Mr K got in touch with Tutton Burnell and asked them to increase his level of cover. He also asked them to make sure that legal expenses insurance cover was included. I've looked at that new policy and while I can see it's intended for businesses, it doesn't provide Mr K with any cover as a landlord.

I've also seen that Tutton Burnell sourced the policy through an insurance intermediary, who arranged the cover with the insurer. It looks as if Tutton Burnell were offered the wrong type of policy by the intermediary. But it was up to Tutton Burnell as Mr K's broker – not Mr K

himself - to be sure that he was getting the right one for his business. It doesn't look to me as if they did enough to check that.

Because of their mistake, I think Tutton Burnell ought to step into the shoes of an insurer who provided a landlord's policy at the time. If it turns out this cover would have applied to his current claim then they should compensate him for his losses. That will need to be checked though, as there are reasons even a landlord's policy arranged at that time might not pay any particular claim.

Taking everything into account, it's clear to me is that Mr K was looking for a legal expenses policy that would give him some protection as a landlord. The policy Tutton Burnell obtained for him didn't do that.

my final decision

It follows that I'm upholding Mr K's complaint against Tutton Burnell & Co, who must compensate Mr K if he's lost out because of their mistake.

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

Michael Goldberg
ombudsman