

complaint

Mr Z complains that Clements Europe Limited mistakenly cancelled the motor insurance policy on his car. As a result, it was stopped by the police, impounded, and then destroyed.

background

Mr Z owned two cars, car A and car B. In November 2012 he took out two separate insurance policies for his cars through Clements. The policy number for car A ended with the numbers '846'. The policy number for car B ended with the numbers '848'. Mr Z was the only person insured under the policies to drive both cars.

In February 2013, Mr Z emailed Clements. The wording is important and is set out below:

"I'm changing my car next week and I would like to change/adapt the insurance to the new one car. For that reason, please, see the old and new car details below;

My actual car [model and registration number of car B]

My new car... [model and registration number of new car being bought]

When I will have the new car =>When I would like to have active/changed my policy:

Thursday 21st February 2013."

Clements said the new car would have to be the subject of a new policy, which Mr Z should arrange online. After a phone call and further exchanges of emails, Clements confirmed that the policy had been cancelled. However none of the later emails mentioned the policy number or car details.

In June 2013, a friend of Mr Z's, Mr T, who was driving car A with his permission, was stopped by the police because car A did not appear to have any insurance. Mr T did not have any insurance of his own entitling him to drive car A with Mr Z's permission. The police impounded car A and notified Mr Z that it would be destroyed if not collected within eight days. Before Mr Z was able to find out what had happened with the insurance, and arrange for the car to be reinsured and collected from the police pound, it was destroyed.

Mr Z said he had continued to pay instalments of premium on car A after Clements cancelled the policy. He considered that Clements should refund these, and compensate him for the destruction of car A. Clements said the instalments he was paying were actually for car B.

Our adjudicator recommended that this complaint should be upheld in part. Clements said that it had read Mr Z's email set out above as meaning that car B would be his "actual car", and he was buying a new car. So it cancelled the policy covering car A. The adjudicator did not consider this was a reasonable interpretation of the email. Clements could not provide a copy of the subsequent phone call, and its file note of that call did not record the number of the policy which was to be cancelled.

The instalment premiums Mr Z was paying for both policies were the same, so there was nothing to alert him that Clements had cancelled the wrong policy. On balance she considered that Clements had not provided sufficient evidence to demonstrate that its cancellation of the policy for car A was in accordance with Mr Z's instructions.

Mr Z said he was unable to collect his car from the police pound before it was destroyed because he had to fly to a business meeting abroad. However, the adjudicator considered that he could have done more to mitigate his loss, for example by arranging for someone else to pay for car A to be released and make sure it was not destroyed.

She recommended that Clements should:

- reimburse Mr Z for the impound fees he had paid, with interest from the date of payment;
- recalculate the premiums Mr Z had paid so that he only paid for car B until the date of cancellation, and for car A until it was impounded. Clements should allow him interest on any refunds due, and should be able to offset the refund of £84.27 it had already paid Mr Z against the amount otherwise due to be refunded; and
- pay Mr Z £250 compensation for the distress and inconvenience it had caused him.

Clements responded to say, in summary, that the main reason for Mr Z's loss was that Mr T, who was driving car A when it was stopped, was uninsured, and would not have been covered by Mr Z's policy even if it had not been cancelled. It also said that Mr Z had failed to inform it that it had cancelled the wrong policy after it emailed him, with details of the policy it had cancelled attached.

The adjudicator considered that the fact that Clements had wrongly cancelled the insurance on car A made it both more likely that car A would be stopped by the police, and more difficult for Mr Z to get car A released from the pound. Mr Z contacted Clements after car A was seized, and it had the opportunity to confirm that his policy had been cancelled in error, but failed to do so.

Also, the email it sent Mr Z confirming the cancellation of the policy did not have details of the policy attached. So Mr Z would not have been aware of Clements' error.

Mr Z responded to say, in summary, that:

- Clements had cancelled the wrong policy;
- whether or not Mr T had insurance was not relevant. If insurance on car A had been in place as it should have been, car A would not have been stopped by the police; and
- Mr Z was unable to pick up car A from the pound because it had no insurance. And he could not arrange insurance before he had to go abroad. So Clements should compensate him for the destruction of the car.

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 find that I have come to the same conclusions as the adjudicator, and for broadly the same reasons.

I conclude that Mr Z instructed Clements to cancel the insurance on car B, but Clements mistakenly cancelled the insurance on car A. However, I consider that Mr Z could have done more to arrange for car A to be released from the pound before it was destroyed. So I do not consider it would be reasonable to require Clements to compensate Mr Z for its destruction. I agree that Clements should compensate Mr Z as the adjudicator has suggested, and as

I have set out more fully below.

my final decision

My decision is that I uphold this complaint in part. I order Clements Europe Limited to:

1. reimburse Mr Z for the impound fees he paid (upon receiving proof of payment from him) plus interest at the yearly rate of 8% simple from the date he made the payment until settlement;
2. charge Mr Z pro-rata premium for the time on cover under the policy ending in '848' between 21 November 2012 and 27 February 2013. Clements should provide a refund if he has paid over and above the pro-rata amount, plus interest on the refund at the yearly rate of 8% simple from 27 February 2013 until settlement;
3. charge Mr Z pro-rata premium for the time on cover under the policy ending in '846' between 22 November 2012 and 3 June 2013. Clements should provide a refund if he has paid over and above the pro-rata amount, plus interest on the refund at the yearly rate of 8% simple from 3 June 2013 until settlement;
4. Clements can offset £84.27 (already refunded to Mr Z) against the total amount otherwise due to be paid to Mr Z; and
5. pay Mr Z £250 compensation for the distress and inconvenience Clements has caused to him.

If Clements considers that it has to deduct tax from the interest elements of my award, it should send Mr Z a tax deduction certificate when making payment, which he can use to reclaim the tax, if he is entitled to do so.

Lennox Towers
ombudsman