

complaint

Mr G complains that Tradewise Insurance Company Limited (Tradewise) settled a third party claim against his motor insurance policy. He says that the third party driver was responsible for the accident and Tradewise had not fully considered the evidence available, meaning the outcome was recorded incorrectly, causing his premiums to increase to an unaffordable level. He also believes the claims made by the third party were not justified.

background

The adjudicator who considered this complaint felt Tradewise had not taken into account the statements of two fare paying passengers in Mr G's vehicle. These held the third party responsible for the accident because he had travelled through a red signal on a traffic light. He also noted the third party statement did not state otherwise.

Therefore he upheld the complaint. He asked Tradewise to amend its recording of the outcome of the claim and offer Mr G £200 compensation for the distress and inconvenience it caused. Tradewise disagreed. It has commented that it had a contractual right to make a decision about the claim and Mr G did not reply to a letter it sent advising it would settle the claim if he had no objection. It requested the complaint be passed to an ombudsman.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

We do not decide which party is liable for causing an accident as that is for a court of law to decide. However we do examine whether the decision on liability made by the insurer was reasonable given the particular circumstances of each complaint.

The policy terms gives Tradewise the discretion to take over and deal with the defence and settlement of any claim made under or against the policy. Whilst Tradewise may have the contractual right to decide how to settle the claim, I need to be satisfied that it did this fairly and reasonably, by taking into account the available evidence.

Tradewise has not explained to us why statements from two apparently independent witnesses have not been taken into account, when it is evident that these statements could have a significant bearing on who was at fault for the accident, especially where the third party does not appear to have specifically disputed travelling through a red light.

Mr G says that he did not receive Tradewise's letter of 21 December 2011 informing him that it intended to settle the claim. It has sent us a copy of this letter, so I can see this was correctly addressed, although I have not seen anything that shows it was produced or sent on 21 December 2011. Even if it was, this doesn't mean Mr G received it.

However, this does not mean that Tradewise was reasonable to record the claim against him because, had it properly considered all the available evidence, it should have defended the claim more rigorously and indeed would not have needed to write this letter to Mr G in any event. Furthermore it also obviously had the opportunity to discuss the circumstances of the accident along with the witnesses' statement with Mr G too.

I cannot find that in those circumstances that Tradewise made a reasonable decision to settle the third party's claim with the consequent issues for Mr G.

my final decision

For the reasons above it is my final decision to uphold this complaint.

I order Tradewise Insurance Company Limited:

- to amend all notifications to databases to reflect that for Mr G this was a non fault claim
- to reimburse to Mr G any increased premiums, because of the recording of the claim and add interest at 8% simple per year from the date each further increase was paid to the date it pays the refund
- to pay Mr G the sum of £200 compensation for the distress and inconvenience it has caused him in the handling of this accident and his complaint

Apart from this I make no further order against Tradewise.

Rona Doyle
ombudsman