

complaint

C, a limited company, complains that Arthur J. Gallagher Insurance Brokers Limited made an error that led to its claim under its motor fleet insurance policy being declined. C wants it to pay for the value of its stolen van. C is represented in this matter by Mr M, its director.

background

C had a fleet of 11 vehicles under cover. C emailed Arthur J. Gallagher to request that Van 1 should be replaced on the policy by Van 2 for one day only unless otherwise instructed. Arthur J. Gallagher responded to say that there was no vehicle on cover under Van 1 registration and added Van 2 to the policy. C then replied to say that it should be Van 3 to be removed. Arthur J. Gallagher actioned this and told C to email it again when it needed to be added onto the policy.

Four days later, Van 4 was stolen. The claim was subsequently declined by the insurer as the van wasn't listed as covered under the policy. But C said that it had requested for the van to be put back on cover before the theft occurred. Arthur J. Gallagher said that the van C had requested to be put on cover wasn't the one which was actually stolen. The van stolen was Van 4. It said that C had never requested this van be covered under the policy.

Our adjudicator didn't recommend that the complaint should be upheld. She thought that C had given the incorrect registration number. Arthur J. Gallagher ensured that Van 3 was covered as C had asked. The fact that the registration number turned out to be incorrect wasn't Arthur J. Gallagher's responsibility.

C replied that the statement provided by the underwriters shows that Arthur J. Gallagher was responsible for the mistake. C says that the claim was turned down because the van registration had been taken off the policy by the broker and not returned. The claim would have been turned down because of this reason irrespective of whether the correct or incorrect registration had been used.

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 can understand that this has been a frustrating and disappointing experience for Mr M. He thought that he had acted to ensure that all his vehicles were covered. But then he found that his theft claim was declined as the vehicle actually stolen wasn't in fact covered. He says that this was the fault of Arthur J. Gallagher. He says that it failed to follow his instruction to return the van to cover. He says that if it had done this then the van would have been covered and the insurer would have paid the claim.

But unfortunately I don't agree with him. I'll explain why.

It's agreed that, due to a clerical error on C's part, the wrong van registration was put on cover. This is clearly not Arthur J. Gallagher's fault as it sent the list of vehicles on cover to C to be checked. C didn't respond to this.

Even if Arthur J. Gallagher had returned the Van 3 to cover as Mr M says it should, I don't think the claim would have been paid. The insurer said,

“As per previous advices we have amended the registration from [Van 3] to [Van 4] with effect from inception but are unable to backdate cover by re-adding the vehicle prior to the email received at 14:37 on 02.02.2015 and therefore [Van 4] (formerly advised as [Van 3]) was not on cover at the time of the theft.”

The email referred to was the notification that the registration was incorrect. Mr M says that as Van 3 and Van 4 registrations shared the same prefix and were otherwise identical then the error on the last two digits of the registration was irrelevant. But I don't agree. I don't think Van 4 was on cover at the time of the theft. The underwriters also said,

“As you are aware this was an As and When policy and therefore all adjustments required prior written notification as we are unable to backdate cover.”

I think it's clear that the insurer needed to have the correct vehicle registration in order for the van to be covered by the policy. The insurer has enforced this policy condition and declined to grant indemnity for the theft.

I think that C provided the incorrect registration number. Arthur J. Gallagher ensured that this registration number was covered. The fact that the registration number turned out to be incorrect cannot be deemed Arthur J. Gallagher's responsibility. I don't think it made an error that led to C's claim being declined.

my final decision

For the reasons I've discussed, it is my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 9 November 2015.

Phillip Berechree
ombudsman