

complaint

Mr C and his sister complain that Tesco Underwriting Limited treated a motor insurance policy as void.

background

The policy was in the name of Mr C's sister. Mr C was a named driver. After he reported a number of incidents, Tesco said that it was treating the policy as void because he was the owner and registered keeper of the car.

The adjudicator recommended that the complaint should be upheld in part. He recommended that Tesco should refund the premium plus simple interest at 8%. But he did not conclude that it was unfair for it to treat the policy as void.

Tesco agrees with the adjudicator's opinion.

Mr C disagrees. He says, in summary, that Tesco knew from day one that he owned 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.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr C's sister (or someone on her behalf) applied online for a policy. The online process was administered by a company which I consider likely to have been an agent of Tesco. It asked Mr C's sister whether she could answer "yes" to the following statements:

"I, or my spouse or civil partner, am the owner and registered keeper of the car".

Mr C's sister (or someone on her behalf) answered "yes".

From a vehicle registration document (V5), issued later, I conclude that this answer was incorrect at the time. And the registered keeper is conclusively stated on the V5. So I consider that the answer was careless.

Tesco says that Mr C's sister (or someone on her behalf) paid the premium of about £995 using a payment card in her name.

From a statement from its underwriting manager, I am satisfied that – if Tesco had known that Mr C's sister did not own the car – it would not have given a quote or issued a policy.

Therefore I do not consider that Tesco acted unreasonably or unfairly by treating the policy as so undermined by misstatement that it was void from the start.

But – having declared the policy void – I do not consider that it is fair and reasonable for Tesco nevertheless to rely on the policy wording or to retain any of the premium.

Therefore I will order Tesco to refund all payments of premium.

my final decision

For the reasons I have explained, my final decision is that I uphold this complaint in part. I order Tesco Underwriting Limited to:

1. refund Mr C's sister all payments of premium;
2. pay her simple interest at an annual rate of 8% on that amount from the date she paid it to the date Tesco refunds it. If it considers it has to deduct tax from the interest element of my award, it shall send Mr C's sister a tax deduction certificate when it pays her. She can then use that certificate to try to reclaim the tax, if she is entitled to do so.

Christopher Gilbert
ombudsman