

complaint

Mr M complains that Elite Insurance Company Limited declared his motor insurance void after he had already cancelled it. He wants records of the voidance removed from all databases.

background

Mr M called his broker to report a non-fault incident, as required under his motor insurance policy. The broker then discovered that Mr M had not reported that he had been involved in a previous non-fault accident, and it placed the new claim on hold. It then emerged that the car belonged to Mr M's relative, and he was not its owner and keeper. Mr M said that he had yet to send off the V5 vehicle registration logbook to DVLA to have the ownership changed. The broker told Mr M that the policy needed to be validated by the underwriters, which would take a few days.

Mr M then called the broker to withdraw the claim because he found the repair cost fell within the policy excess. Later that day, he told the broker that he wanted to cancel the policy and he was told to put this request in writing and return the certificate of insurance document. The next day, a letter informing Mr M that the policy was voided was sent to him in the post. The letter said this decision was taken due to a misrepresentation of the facts, namely who was the owner and registered keeper of the car. Mr M complained that he had cancelled the policy before the voidance and he did not accept the decision. The broker said that the cancellation had not been done because the certificate of insurance and a letter instructing the cancellation had not been received. Elite later refunded Mr M's premium as there was no third party claim against it following the incident he reported.

The adjudicator did not recommend that the complaint should be upheld. He thought that Elite's decision to void the policy was justified because Mr M knew that the car he was seeking cover for was not his at the time, yet in response to a direct question about the ownership/registered keeper, he knowingly failed to disclose this information. He did not agree that Mr M had cancelled the policy before the voidance because the policy wording said that the cancellation must be done in writing and the voidance had already been issued.

Mr M responded restating his view that he was convinced that he cancelled his policy before the voidance took effect.

my findings

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

I can see that Mr M is adamant that he cancelled the policy before the voidance decision was made. He also says that Elite knew that the car was not his, yet it still offered him insurance. I can understand that this is having serious consequences for him, yet I am not persuaded by his views which have not always been consistent.

I find that there is no dispute that when Mr M took out the policy, he was not the registered owner and keeper of the car, but that when asked if he would be, he said "Yes", implying that he intended to take ownership of the car. In his complaint to us Mr M says that Elite knew that he did not own the car when he insured it but I find that I am not persuaded by this as in

the call records Mr M said that he had already bought the car, and gave the price, and did not mention his relative.

Yet, four weeks later, when he called the broker to make his claim, he said that he had not yet sent off the V5 to make the change of ownership from his relative. He still referred to the car as his relative's and I find that it is not clear that he ever intended to make the change. Consequently, I find that when Mr M took out the policy, he was aware that he was not the car's owner and keeper and that he knew that he had not disclosed this to Elite.

The adjudicator has explained that our approach is that an insurer may fairly void a policy if there was a deliberate non-disclosure which induced the insurer to offer the policy. I find that I agree with the adjudicator that the evidence shows that the circumstances of this non-disclosure fall within this definition. Elite's underwriting terms say that it will only offer cover if the policyholder was the registered owner and keeper of the car. It would not have offered Mr M insurance if it had understood that he was not the car's registered owner and keeper. I find that Mr M's responses to its questions induced Elite to believe that he intended to be the owner and keeper. But Mr M, after four weeks, had not changed ownership of the car on the V5 document. He clearly knew that this was required. I find that Elite's decision that this was deliberate non-disclosure by Mr M to be fair and reasonable and therefore that its decision to then declare his policy void was reasonable in these circumstances.

Mr M says that he cancelled his policy before it was declared void, and therefore it should not be recorded as a voidance. I find that the terms and conditions of the policy, in respect to cancellation, say the following:

"You may cancel this policy by contacting us through your insurance intermediary and returning your certificate of motor insurance"

From the call records, I find that Mr M was told that in order to cancel the policy he would need to return the certificate of insurance. I find that I do not agree with Mr M's view that merely noting his intention to cancel the policy by itself had the effect of cancellation or that he returned his certificate of insurance before the policy was voided. I have looked at Elite's records, and I find that by the time of Mr M's call to his broker to attempt to cancel the policy, the underwriters had already reviewed the policy based upon the information from previous telephone conversations and that a decision had already been made to void the policy. Mr M returned his certificate but not before the voidance decision was made. The policy was effectively voided and it had not been cancelled by him because the conditions of cancellation, as noted above, were not met.

Consequently, I find that Elite did not act unreasonably and accordingly I do not require that Elite revokes the voidance of the policy. I note that Elite has reasonably refunded Mr M's premium in full as no third party claims had been made against the policy.

my final decision

For the reasons above, it is my final decision that I do not uphold this complaint and I make no award against Elite Insurance Company Limited.

Phillip Berechree
ombudsman