

complaint

Mr F complained that Ageas Insurance Limited wouldn't pay his claim under his tools in transit insurance policy.

background

Mr F said that his work tools were stolen from his van while it was locked and parked near his workplace. But Ageas declined his claim. They said the theft wasn't covered because there was no evidence of forced entry to his van. But Mr F thought that the thief must have gained access to his van in some other way, such as by using a skeleton key.

The investigator recommended that the complaint should be upheld. He thought that Ageas hadn't acted reasonably in refusing the claim. So he recommended that Ageas deal with Mr F's claim in line with the policy terms.

Ageas didn't agree and so the case has been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr F said that he left his van locked and secured while he was working nearby. When he went back to his van he noticed that his tools were gone. He couldn't see any signs of forced entry. He reported the theft to the police. He said that the police told him there'd been a spate of that type of theft in the area, that didn't involve forced entry. He felt that the theft could have happened using a skeleton key for his type of van which he showed was easily available to buy online.

Mr F's policy didn't cover him for the theft of his tools unless he'd left his van locked and secured, and it had been entered by "*forcible and violent means*". The policy wording doesn't define "*forcible and violent means*". But I think that what the policy meant was gaining entry to a vehicle without the owner's permission, and that could potentially occur without causing damage. Generally we take the view that force can be any force including turning a key in a lock, or lifting a handle. So this could include the use of a skeleton key or electronic device. We're aware now that it's possible, and has become more common, for thieves to access cars with skeleton keys or specialist devices without forcibly breaking in to them.

Ageas didn't dispute that Mr F had left his vehicle locked. But without any evidence of forcible entry, they wouldn't settle his claim. But they had found some press articles about keyless theft. So they said they'd consider his claim if he could show them some evidence that there had been keyless thefts in the area around that time.

It's clear that Mr F did try hard to get something supporting this from the police, but without success, through no fault of his own.

Ageas also tried to get information from the police to quantify keyless car thefts in the area. But the police couldn't reasonably provide the information that Ageas asked for, though they said that they might be able to supply it if Ageas narrowed down the location and the time frame of their request. But Ageas don't seem to have followed that up.

Insurers are entitled to have exclusions to protect them if a policyholder hasn't left their vehicle secure, but Ageas aren't suggesting that here. They're not disputing that Mr F's van was locked, or that his tools were stolen. Mr F reported it to the police and the police haven't indicated any suspicions about it either. Mr F's given a reasonable explanation about what might have happened and about what the police told him. He's also tried to get supportive information from the police, and he's shown Ageas why he can't.

Ultimately for an insurer to rely on a policy exclusion they must apply it fairly. So it's not up to Mr F to prove how the theft happened. It's up to Ageas to show that it was more likely than not that the theft happened because thieves accessed the van without using forcible or violent means, as we interpret it above. And I don't think that Ageas have got enough evidence to say that. So they haven't shown that there wasn't 'forcible and violent' entry to the van.

Overall I think that Mr F gave Ageas enough information to show that his claim was covered by the policy, but Ageas haven't proven that the exclusion applies against him. So I don't think that they've been fair or reasonable and I think that they should deal with Mr F's claim in line with the remaining terms and conditions of the policy.

my final decision

For the reasons I've discussed above, it's my final decision that I uphold this complaint. I require Ageas Insurance Limited to:

- Consider Mr F's claim in line with his policy's remaining terms and conditions.
- Add interest to any cash settlement at the simple yearly rate of 8%, from the date of claim to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 25 March 2019.

Rosslyn Scott
ombudsman

If Ageas consider that they are required by HM Revenue & Customs to take off income tax from that interest, they should tell Mr F how much they've taken off and should also him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.