

complaint

Mr T's complained that esure Insurance Limited settled a claim under his motor insurance policy from another driver. Mr T said he wasn't involved in the accident.

background

Another driver made a claim to Mr T's insurer, esure. He said Mr T's car hit the rear of his car and drove away. Mr T told esure he wasn't involved in an accident. But he was in the area when the accident happened. However a witness said he saw Mr T's car leaving the scene and he later discussed the accident with Mr T further up the road. When esure arranged for Mr T's car to be inspected, it had damage which was consistent with damage to the other driver's car.

esure decided it wouldn't be able to defend the claim. So it settled the other driver's claim. But it didn't tell Mr T.

Mr T complained to esure about the delay, and its decision to settle the other driver's claim. esure said its decision was correct, but it agreed it hadn't updated Mr T when it could have. So it paid him £100 compensation for its poor service.

Mr T remained unhappy, so he brought his complaint to us. The adjudicator didn't think esure had shown it had properly investigated the claim. But esure provided further information and the adjudicator didn't recommend Mr T's complaint be upheld. He felt esure had reached its decision reasonably.

Mr T didn't agree. He believes esure should have tried to obtain CCTV footage earlier on. He believes this would have proved he wasn't involved in an accident.

So the matter 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. Having done so, I don't intend to uphold it.

We don't decide who is at fault for an accident, as this is the role of the courts. Instead, we look at whether the insurer acted fairly and reasonably in making its decision, and in line with the policy.

Under Mr T's policy esure has the right to take over the defence or settlement of any claim. And it can make its own decision about whether it's reasonable to contest a third party's claim or better to settle it. This might mean that esure makes a decision Mr T doesn't agree with, but the policy allows esure to do this. This is a common term in all motor insurance policies.

I've seen the evidence which esure has relied on in deciding Mr T was responsible for the accident. The independent witness's version of events differed to Mr T's and was more supportive of the other driver's version. After esure's investigator interviewed Mr T and the independent witness, his view was that the witness's account was stronger than Mr T's.

Mr T's car had existing damage due to its age. However, there was also damage to the front of the car. This meant it would be very difficult for esure to argue that Mr T couldn't have collided with the other car.

The police visited Mr T later that evening after the witness passed his registration number to them. The police told Mr T they were obtaining CCTV footage, which Mr T in turn told esure. So I don't think esure was wrong to wait for the police to obtain the footage rather than also requesting it. Unfortunately the police were unable to obtain any, but this simply means it's very unlikely esure would have been more successful.

esure saw photos of the other driver's car and these, along with the other findings in their investigation, meant they didn't think they could defend the claim.

I understand Mr T is frustrated about the outcome of the claim as he insists he wasn't involved in an accident. He's unhappy he's lost his No Claims Bonus (NCB) as the claim has been recorded as a fault claim. But esure was entitled to take a view that it was better to settle the claim rather than contest it with the risk of having to pay significant costs. And as a claim was made, Mr T's NCB has been correctly reduced.

Taking everything into account, I think esure properly investigated the claim and it reached its decision to settle it in a reasonable way.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 28 October 2016.

Geraldine Newbold
ombudsman