

## complaint

Mr A complains that Tradewise Insurance Company Limited ("Tradewise") won't pay a claim he made under his motor insurance policy after the van he had insured was stolen.

## background

I issued a provisional decision on this complaint on 16 July 2018, a copy of which is attached to this decision.

Tradewise didn't comment on my provisional decision. Mr A responded to say, in summary, that:

- the van was owned by him, not Company B. He produced evidence that he used his own debit card to pay the vehicle tax for the van;
- he still thought that when it was stolen the van was "*parked in the course of a journey*";
- his policy included cover for "*social domestic and pleasure purposes*", which should include the circumstances of his use at the time of the theft;
- he was learning the motor trade from a friend, and so was engaged in the motor trade; and
- he had been trying to sell the van, but it was a rather rare type, and he wanted to get a good price for it. His motor trade friend had "spread the word" about it among contacts.

## 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've looked carefully at the additional information Mr A has supplied. Having done so, my view remains that it's more likely than not that:

- Company B, not Mr A, was the owner of the van. The fact that payment to DVLA of the vehicle tax for the van was made using Mr A's debit card doesn't alter my view on this;
- Mr A wasn't using the van for motor trade purposes. I haven't seen enough evidence that Mr A was a motor trader as defined in the policy; and
- at the time the van was stolen it wasn't "*parked during the course of a journey*".

Mr A says that irrespective of those factors, his policy included cover for "*social domestic and pleasure purposes*", and so as he was visiting his sister the van was covered by the policy when stolen.

However this isn't a separate free standing head of insurance covering any vehicle the insured or named driver happens to be driving. It's included in the insurance certificate under the heading "Limitations as to use".

The vehicle being driven must first come within the policy requirement of being owned by the insured or in their custody and control for motor trade purposes. If it satisfies that test, the fact that on a particular occasion it's being used for social, domestic or pleasure purposes won't take it outside the protection of the policy.

However as I have said that I don't think Mr A's van met the test of being owned by him, or in his custody and control for motor trade purposes, it wasn't covered by the policy however it was being used at the time it was stolen.

So I remain of the view that Tradewise hasn't acted unfairly or unreasonably in not paying Mr A's claim.

**my final decision**

For the reasons I've set out above and in my provisional decision, which is attached to and forms part of this decision, my decision is that I don't uphold this complaint, and make no order against Tradewise Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 23 September 2018.

Lennox Towers  
**ombudsman**

## PROVISIONAL DECISION

### complaint

Mr A complains that Tradewise Insurance Company Limited ("Tradewise") won't pay a claim he made under his motor insurance policy after the van he had insured was stolen.

### background

In February 2017 Mr A bought a used motor van. To insure it, he bought a specialised motor insurance policy underwritten by Tradewise for people who were motor traders. In August 2017, Mr A's van was stolen and he claimed under his Tradewise policy.

Tradewise wouldn't pay his claim as it wasn't satisfied that it fell within the conditions of the policy. The principal reasons it gave were as follows:

1. The policy was intended for motor traders only. So the only vehicles insured under the policy were vehicles owned by the insured, or in their custody or control for Motor Trade purposes.
2. The invoice for the van was addressed to Mr A. But the van was immediately registered with the Driver and Vehicle Licensing Agency(DVLA) in the name of a company ("Company B") of which Mr A was a director, and the seller delivered it to Company B's address, which was also the address it was stolen from five months later.  
The van was added to Mr A's Motor Insurance Database record ("MID") as his own vehicle, meaning it wasn't intended for selling. This suggested it was bought, and intended for use by, Company B.
3. None of Mr A's money seemed to have been used for the purchase, but it had all been provided by various relatives and friends of Mr A, to whom it was still owed. So Tradewise wasn't satisfied Mr A had any financial interest in the van, or that it didn't actually belong to Company B.
4. When applying for the insurance Mr A said he was a part-time motor trader for the business of buying and reselling vehicles. Tradewise had asked him to provide evidence of this. But all he had produced was evidence that he occasionally picked up cars or parts for other motor traders for a fee.
5. At the time the van was stolen, Mr A said he had driven the van to show it to a potential customer. On the way back, he had parked the van outside Company B's premises and then stayed the night with his sister, who lived nearby. When he returned in the morning, he found the van had been stolen.  
Tradewise said that even if the van was within the definition of "insured vehicle", which it disputed, it would only be covered in these circumstances if it was "*parked during the course of a journey*". By staying the night with his sister Mr A had broken his journey. So it wasn't covered when stolen.

Mr A disputed Tradewise's decision. He said, in summary, in answer to the above numbered points, that:

1. The policy also covered him as insured for social and domestic purposes. He had been visiting his sister.

2. He had bought the van intending to resell it to Company B when it was able to arrange finance. It wasn't able to do so, and the sale didn't proceed. So he still owned the van and considered it part of his "stock". He didn't change the DVLA registration as registration isn't proof of ownership. He said Company B didn't use the van and had no interest in it. He acknowledged he hadn't changed the MID registration.
3. He had a financial interest in the van as he would have to repay the loans he had taken to buy it.
4. He considered he was a motor trader, although only part-time and on a small scale.
5. He thought that as he had set off from home, and hadn't returned, he was still on a journey even though he had stayed overnight with his sister.

Our investigator recommended that this complaint should be upheld. She said Mr A had provided clear evidence that he had bought the van. And even if he borrowed the money to do so, he would have to pay it back. So he had a clear financial interest in the van.

Tradewise appeared to accept the van was added to the MID not for trade purposes. Mr A had the van for five months before it was stolen. The policy included cover for social domestic and pleasure purposes, and he was clearly using the van for this when he visited his sister and stayed overnight. So she thought the claim should be reassessed under the social domestic and pleasure aspect of the policy.

Tradewise responded to say, in summary, that:

- this was a commercial motor policy issued to Mr A for his motor trade business. Mr A hadn't provided sufficient evidence of his involvement as a motor trader. And the policy didn't cover any other business use;
- Mr A didn't volunteer that Company B was his own business, and it was outside its premises that the theft took place. This only became clear to Tradewise after the van was stolen and it began to investigate;
- when Company B didn't buy the van, Mr A didn't re-register the van with the MID to trade, and there's no evidence of it being advertised for sale during the five months before the theft;
- no evidence was provided that the loans were made to Mr A;
- the van was bought for Company B, was delivered to its premises, and was stolen five months later from outside its premises. Tradewise thought it most likely that it was Company B which had the interest in the van; and
- the van wasn't *"parked during the course of a journey"* and so its theft wasn't covered by the policy.

### **my provisional 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 have come to a different conclusion from the investigator'.

The policy Mr A arranged with Tradewise was a motor trade insurance policy. In it, "insured vehicle" is defined as:

*"any motor vehicle .....the property of the insured or in their custody or control for motor trade purposes..."*

So for the van to be covered by this policy, it either had to be owned by Mr A, or it had to be in his custody or control for motor trade purposes.

*“Motor Trade/Trader” is defined as:*

*“an insured who is operating an active business within the motor trade industry for the purpose of making a profit and should remain active for the duration of the policy.”*

The policy says insurance will be provided, subject to the policy terms:

*“while an insured vehicle is being used on any road or temporarily garaged or parked during the course of a journey in or on any premises not owned by or in the occupation of the insured.....”*

It's not clear to me why Mr A decided he needed a motor trade insurance policy. He says he bought the van intending immediately to resell it to Company B. He says Company B couldn't arrange finance, so the sale didn't proceed and Company B didn't use the van or have any interest in it. But:

- with the loans he still owed, and an asset reducing in value, I find it surprising that five months later Mr A still hadn't sold the van;
- I've seen no evidence that he advertised the van for sale, or actively tried to sell it, or even of the potential customer he says he visited before the theft; and
- it's not clear why he thought it appropriate to keep this size of van for the limited work he did for other motor traders.

For these reasons I don't think Mr A was using the van for motor trade purposes. Also on the evidence available to me, namely the fact that Company B was the registered keeper, and the fact that the van was stolen from its premises, I think that, on balance, Company B was the owner of the van and not Mr A. The policy doesn't cover a vehicle that isn't Mr A's property if it's also not in his custody or control for motor trade purposes. This means that the van wasn't covered by the policy when it was stolen.

Tradewise also says the van wasn't *“parked during the course of a journey”* when it was stolen, which again means the theft isn't covered by the policy. Mr A doesn't agree and said because he hadn't reached his final destination which was his house he was still in the course of a journey. Mr A said that he stayed over with family that night and parked the van nearby. I don't think I can reasonably say that after such a long break from driving the van he was still in the course of a journey. But even if that wasn't the case I still think his complaint fails for the two reasons I've given above.

If the theft wasn't covered by the policy, I don't think I can require Tradewise to consider the claim under the social domestic and pleasure section of the policy.

On balance, having considered all that Mr A has said, I conclude that it's more likely than not that:

- Company B, not Mr A, was the owner of the van;
- Mr A wasn't using the van for motor trade purposes; and
- at the time the van was stolen it wasn't *“parked during the course of a journey”*.

So I can't say Tradewise has acted unfairly or unreasonably in not paying Mr A's claim.

**my provisional decision**

For the reasons I've already explained, but subject to any further comments and evidence I receive from either Mr A or from Tradewise by 30 July 2018, I don't intend to uphold this complaint.

Lennox Towers  
**ombudsman**