

complaint

Mr J and Mrs J are unhappy about Ageas Insurance Limited's decision to void (cancel from the start) their home insurance policy for misrepresentation (not providing all the requested information).

background

After a timber fence along the boundary of the property had become unstable Mrs J had an engineering report done. The report said that landslip could occur along the boundary. At this point Mrs J contacted Ageas to confirm that she was going to start legal proceedings against her neighbour. Ageas responded by voiding the policy and said that Mrs J had misrepresented information when she took out the policy. Unhappy with this Mr J (who is a co owner of the property) brought a complaint to this service on behalf of his family.

Our adjudicator upheld the complaint. He said that there was no evidence of any landslip or other related problems when the policy was first taken out. He felt the average customer would make no connection between an unstable wall and landslip/subsidence. He said that Ageas should reinstate the policy and pay £250 compensation for the distress and inconvenience caused.

Ageas didn't accept this and asked for the complaint to be passed to an ombudsman for a final decision.

my findings

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

Ageas said that when the policy was set up it asked the following question:

"Was the property free from Subsidence and Underpinning?"

And Mrs J replied "Yes".

Even though this is debated between the parties it seems accepted that Mrs J was aware of the requirement noted in the original statement of fact which said:

"To your knowledge the property has not been affected by subsidence, heave or landslip, and has not been underpinned?"

I accept that even though the question and the statement may differ they are both clear in their intention.

The dispute springs from an issue that occurred around ten years before. The records show that back then part of the boundary wall had become unstable and needed to be replaced. There is a minor amount of other detail but certainly nothing to confirm that at the point ten years ago the property was suffering from landslip or subsidence. Mr J has said that Mrs J had no engineering experience and if she had been given any indication that there was a problem all those years ago she would have taken action. He said the problems only surfaced after the policy was taken out.

Ageas said that during that ten year period it's reasonable to think that Mrs J would have known about any issues with the boundary. In its opinion Mrs J didn't answer the question correctly about landslip and subsidence as she should have said that the property was suffering from this. Ageas said it wouldn't have offered cover had it been aware of the landslip. Despite Ageas making what it considers to be a reasonable assumption it hasn't provided anything that shows Mrs J was aware there was landslip or subsidence and that she chose to ignore it.

I have to consider if Mrs J did misrepresent any details to Ageas. The engineering report details refer to problems with the fence that were first noticed in autumn 2011. This is several months after the policy was taken out and the reason why Mrs J decided to get an engineering report done in the first place. Key to this case is that there is no evidence to show that Mrs J knew of any issue or took any action between the original problem with the boundary wall and when she noticed the issue with the timber fence.

I have seen nothing to suggest that there were on going issues or clear evidence obviously showing that subsidence or landslip had been occurring over a long period. There is nothing to show that Mrs J just hadn't dealt with it until the policy had been taken out.

Based on what I have seen I find that Mrs J didn't misrepresent the facts or answer the questions incorrectly. I find that Ageas's decision to void the policy was therefore unreasonable.

It's clear that voiding the policy just at a time when legal proceedings were due to start would have had an impact on Mrs J. Other insurance would be difficult to come by once such a problem had been found and Mrs J had to contend with this due to Ageas's actions. It's clear to me that this caused distress and inconvenience to Mrs J and Ageas should pay her £250 in compensation.

my final decision

I uphold this complaint. I require Ageas Insurance Limited to:

- reinstate the policy subject to repayment of any returned premiums;
- pay £250 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs J to accept or reject my decision before 30 October 2015.

John Quinlan
ombudsman