

complaint

Mr K isn't happy because The Society of Lloyd's has declined a claim he made under his commercial motor insurance policy.

background

Mr K's van was involved in an accident so he made a claim on his insurance. The claim was declined because the van didn't have a valid MOT certificate.

Mr K says that he was aware the van had failed the MOT test but he arranged for the work on the brakes (which the MOT identified as being necessary) to be carried out at a garage. He says that he thought the brakes had been sorted out, the van had then passed its MOT and was roadworthy. Mr K says that he wasn't to know that the garage hadn't done their job properly.

Lloyds says that under the terms of the policy Mr K has a responsibility to take reasonable steps to prevent loss or damage and to maintain the vehicle in an efficient and roadworthy condition. They say that the evidence Mr K has provided, showing that some work was done on the brakes, doesn't mean the van was roadworthy. Lloyds also say that there's no valid MOT certificate showing that the van was retested and passed. Lloyds offered Mr K £50 in recognition of there being some delays when it was handling the claim.

Our investigator looked into what had happened. He accepted that it looked as if some work had been done on the van's brakes after the first MOT test. But he said that there was no record of a subsequent MOT test being carried out which demonstrated that the van was considered to be roadworthy. So he didn't think it was unfair of Lloyds to decline the claim or that Lloyds needed to pay any further compensation to Mr K. He also noted that it didn't seem unreasonable for Lloyds to say that the failure to make the brakes roadworthy directly contributed to the accident.

Mr K didn't agree as he says that the engineer told him that the brakes weren't roadworthy but weren't illegal. He also said that he sent a driver to pick up the van after the work on the brakes was completed so assumed that he also picked up the MOT paperwork. So he wasn't to know that the garage hadn't done their job. So he asked for an ombudsman to look at his complaint.

my findings

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

Most motor insurance policies place a responsibility on the policyholder to maintain the vehicle in a roadworthy state. The issue in this complaint is whether it is reasonable for Lloyds to reject Mr K's claim on the basis that the van wasn't roadworthy and whether there's evidence that Mr K's loss was caused, or was significantly contributed to, by the van not being roadworthy.

I think it is reasonable for Lloyds to reject the claim and I think that it's most likely that there was a connection between Mr K's van not being roadworthy and the accident which caused his loss. I say that because:

- I don't think Mr K took reasonable steps to ensure that the van was in a roadworthy state. Mr K's van failed an MOT because of a problem with the brakes. So it was his responsibility to make sure that problem was sorted. I don't think it was reasonable for Mr K not to clarify what work had been done or confirm whether a second MOT test had been completed. Mr K says he assumed that his driver sorted out the paperwork but I don't think that was a reasonable assumption to make. Mr K is the policyholder so it's his responsibility to ensure the van was roadworthy not his driver;
- Mr K says that the engineer told him the brakes weren't illegal. But MOTs are mandatory tests which are meant to make sure vehicles meet road safety standards. And Mr K's van failed its MOT because the brake discs were seriously weakened and the pads were less than 1.5mm thick. The information Mr K's provided doesn't describe in detail what work was done after the car failed the first MOT or confirm that the issues identified in that test were fixed. There's also no evidence that the van was put through or passed a subsequent MOT. So I don't think it's unreasonable for Lloyds to say that the van wasn't roadworthy given that Mr K hasn't been able to show the issues in the MOT had been fixed;
- Mr K's accident involved hitting another car in the rear causing heavy impact damage. So, in the absence of other evidence, I don't think it's unreasonable for Lloyds to conclude that the problem with the brakes made a significant contribution to the accident. Mr K has had the opportunity to provide more detailed evidence from the garage or a further report but he's not provided any further evidence in support of what he's said. So I don't think that Lloyds has acted unfairly in reaching that conclusion.

my final decision

I'm not upholding Mr K's complaint against The Society of Lloyd's. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 16 April 2018.

Anna Wilshaw
ombudsman