

complaint

Mr and Mrs B and R complain that Allianz Insurance Plc has declined their commercial property insurance claim for damage caused by an escape of water.

background

Mr and Mrs B were leaseholders of a flat in a block managed by R. R is the policyholder of the property owners' commercial buildings and contents policy. Mr and Mrs B were beneficiaries of the policy until their flat was sold.

In June 2018, whilst some works were being carried out by contractors at the property as a result of a water leak in 2017 and the discovery of dry rot in July 2017, some moisture was discovered between the slab and the floor screed in the lounge area. Investigations were carried out which included R arranging for the drains to be surveyed. An inspection of the drain revealed that two drain gulleys had cracked. These were repaired in mid-July 2018.

A claim was submitted to Allianz on the grounds that the defective drain had allowed water to penetrate the basement flat, as a result of the ground being saturated, which had caused damage. Allianz appointed loss adjusters to validate the claim.

On visiting the property in late July, the loss adjuster was told by the contractor that the property had started to dry out after the drains were repaired and that it'd been engaged to carry out tanking to the walls and floors and remove the dry rot. The loss adjuster observed that moisture was present to the perimeter of the floors to each room and the low level walls.

The loss adjuster recommended a drying company be instructed to install equipment for three weeks to see if the damp improved or not. The loss adjuster thought that if it didn't then this would prove that the damp hadn't been caused by the, now repaired, defective drains.

The dryers were installed and moisture readings taken intermittently all of which remained constant throughout the three week project. The adjuster reviewed the drying company's report and thought that the continuing presence of damp, despite the dryers having run for three weeks, indicated conclusively that the drains were not the cause of the damp. The loss adjuster noted there was no damp proof course present and that the room was below ground level. The loss adjuster concluded that the moisture presence was caused by rising damp which had been able to penetrate the flat because there was no damp proof course/tanking installed. It was decided that the damage hadn't been caused by anything covered by the policy so the claim was declined.

Mr and Mrs B and R complained to Allianz. Allianz looked into the complaint but didn't think it'd done anything wrong. Mr and Mrs B then brought a complaint to this service. Our investigator looked into the complaint but didn't recommend it was upheld as he didn't think Allianz had unreasonably or unfairly declined the claim.

The complaint was passed to me for a 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.

I have to decide if Allianz unfairly and unreasonably declined Mr and Mrs B and R's claim. I don't think it did, I'll explain why.

Not all damage a property sustains will be covered by a property insurance policy. In order to be covered, the damage needs to be caused by one of the perils (or, events) listed in the policy terms such as fire, theft, subsidence, flood, escape of water etc. If the damage isn't caused by one of the events listed then the insurer doesn't need to pay out.

Here it was initially suspected that the high levels of moisture discovered in the floor by the contractors working in the flat, were caused by leaking defective drains. It's reasonable to think that once the drains were fixed and the drying programme conducted, then any moisture/damp present as a consequence of the leaking drain would have dried out. But unfortunately this didn't happen. The moisture levels remained constant – without improvement - throughout the duration of the drying programme indicating that leaking drains, or no leaking drains, the damp present in the flat must have another cause.

The loss adjuster noted that the flat was below ground level and that there was no damp proof course or tanking present. Indeed the contractors were on site to tank the walls (and it was subsequently decided, the floors too). Some form of damp barrier is typically needed in subterranean properties in order to protect them from ground moisture. Here it doesn't appear that such protection had ever been installed. I note the salt test taken confirmed nitrates were present but no domestic water. So I think it was reasonable for the loss adjuster to have concluded that the property was suffering from rising damp due to a lack of any damp protection.

Unfortunately damage caused by rising damp isn't something that's covered by R's policy so I can't say that Allianz unreasonably declined this claim. And the evidence doesn't allow me to reasonably conclude that the damp/moisture presence was the result of water escaping from the defective drains as maintained by Mr B.

I appreciate that the contractor working for Mr B has said that it was a dry summer and that after the drain was fixed there was no more water entering the flat but I can't reasonably ignore the expert evidence in this complaint – provided by the loss adjuster and drying company – that the flat did indeed remain damp after the drain was repaired.

So, with regret for any disappointment this causes Mr and Mrs B and R, I'm unable to uphold their complaint against Allianz.

my final decision

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 and Mrs B and R to accept or reject my decision before 1 July 2020.

Claire Woollerson
ombudsman