

complaint

Mr and Mrs D complain Hiscox Underwriting Limited unfairly cancelled their household insurance and refused to pay their claim.

background

Mr and Mrs D took out household insurance with Hiscox in 2007. This renewed a number of times. In 2012 they made a claim for fire damage to their home.

Back in early September 2011 Mr and Mrs D's policy had been about to renew. Mr D called Hiscox. He wanted to discuss a statement, on his renewal documents, that said Mr and Mrs D weren't bankrupt and hadn't made any arrangements with creditors. He said they '*have a problem with one of their businesses*' but they weren't bankrupt. Hiscox explained it would need to review the policy if he was a director, or guarantor, of a failed business. He said the business was a limited company and he wouldn't be liable for any debt if it failed. So the policy was renewed without any review or amendment.

But during the claim Hiscox found out that Mr D was a director of a company (Company A) that had, in April 2011, gone into insolvent liquidation. And he was a guarantor and liable for a significant amount of its debt. It said he'd failed to disclose this at the renewal. And if he'd told it about Company A it wouldn't have renewed the policy. So Hiscox cancelled it back to the renewal date and refused to continue with the claim.

Mr and Mrs D didn't agree with Hiscox. After their complaint had reached this service they said Mr D hadn't actually been talking about Company A during the call. He was talking about a different business (Company B). So he hadn't failed to disclose the directorship and debt liability information about Company A. The ombudsman, looking at the complaint, decided Hiscox should, in light of this new information, review its position. It's now done this, but it came to the same outcome. So Mr and Mrs D have brought a complaint to this service again.

Our adjudicator didn't think the complaint should be upheld. He said Mr D should have told Hiscox about being liable for Company A's debts. And if he had Hiscox wouldn't have continued to provide cover. So its decision to cancel the policy was fair. Mr and Mrs D disagreed, so the complaint has been passed to me.

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 this, I'm not upholding it.

did Mr and Mrs D take reasonable care?

I've looked at whether Mr and Mrs D took reasonable care when renewing their insurance in 2011. If they did then I could require Hiscox to ignore the information it found out about Mr D. And I could require it to reinstate the policy as it was originally taken out. But I don't think Mr and Mrs D did take reasonable care. Mr D may well have been talking about Company B during the call. But he still should also have told Hiscox about the situation with Company A.

Mr D raised the problem with '*one of his businesses*' with Hiscox. So he was clearly aware that this type of financial issue might be relevant to its decision about providing the insurance. The conversation with Hiscox had a focus on personal liability for company debts. It was explained that if he was a guarantor or director of a failed business cover would need to be reviewed by an underwriter. Mr D answered '*right*' to this, implying he understood.

He wasn't asked a direct question about Company A. But because of the discussion he should have understood Hiscox would want to know he was a director and a guarantor of a failed company. And I think he would have been aware of the situation with Company A at the time of the call. It had gone into insolvency about five months earlier. A few months later the bank had demanded repayment of its debt. And the bank warned it would take steps to enforce Mr D's guarantee. Only a few days before the renewal call he'd been at a meeting where he discussed how to repay his debts, including the Company A one. And he was at risk of losing his home because of these debts.

In reaching my decision I must take into account, but I'm not necessarily bound by, the law. I've looked at the case law Mr and Mrs D have referred to, but it doesn't change my decision in this case. My role is to reach a conclusion which is fair and reasonable in all the circumstances of the dispute. And I think Hiscox made Mr and Mrs D aware that any personal liability for the debt of a failing business might affect whether it would provide cover. Mr D was aware of his liability for Company A's debt but he didn't tell Hiscox about it. So I can't say that he took reasonable care. When we think someone didn't take reasonable care we look at what an insurer would have done if it'd been told the correct information.

was it fair to cancel the policy?

A Hiscox underwriter has provided a statement. Looking at this I think that if Mr D had told Hiscox about his guarantee of Company A's debt it would have asked for more information about his financial situation. And once it was aware of his wider circumstances it wouldn't have continued to provide Mr and Mrs D with cover. So I think its decision to cancel the policy and not continue with the claim was fair and reasonable.

my final decision

For the reasons given above, I'm not upholding Mr and Mrs D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs D to accept or reject my decision before 8 February 2016.

Daniel Martin
ombudsman