

complaint

Mrs E is dissatisfied with British Gas Insurance Limited's handling of a claim under her cover.

The circumstances and background to this complaint were set out in my provisional decision dated 26 November 2013, as follows:

“background

In December 2011, Mrs E had a new boiler installed by a third party. Within two days, Mrs E was experiencing pressure loss and the boiler stopped working. This was reported to British Gas as a suspected leak.

British Gas says the cause of the leak was the difference in pressure between the old open vented system and the new pressurised system causing the joints to leak. Although British Gas accepted that the boiler had been installed to a satisfactory standard, it considered the decision to alter the system to fit a combi boiler was unsuitable. As the boiler was installed by a third party, British Gas declined the claim arguing this fell under the policy exclusion which reads:

7.2 Accidental damage/third-party damage/ damage from intentional risk taking:

Except where accidental damage caused by you is specifically stated as being included under your Agreement, the cost of repairs relating to damage caused by you is excluded. Where work is undertaken on your system or appliance by a third party, whether or not following our advice, which results in damage to that or another part of your system as a result of poor workmanship, the repair of any such damage will be excluded from your Agreement.”

British Gas also says that it had previously explained to Mrs E that converting the open vented system to a pressurised system was not a viable option. Mrs E says the British Gas engineer had commented the standard of work in installing the new boiler was of a high standard. She therefore feels British Gas' reliance on the policy exclusion is unreasonable and seeks to recover the £540 she paid a third party to trace and repair the leak.

Our adjudicator noted that British Gas could not provide evidence to show that it had previously advised Mrs E against converting the system to a pressurised system. He was also not persuaded that there was sufficient evidence to suggest that the leak was caused solely due to the change in the system. He therefore concluded British Gas should reimburse Mrs E the £540 and pay £100 for the inconvenience caused.

British Gas took the view that without further information, it could not be determined whether the repair work carried out would have been covered under the policy. Moreover, it maintained that it had applied the policy exclusion correctly. The case was therefore referred to me for a final decision.

my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Insurance policies do not provide cover for every eventuality and British Gas' obligations to Mrs E are limited by the terms, conditions and exclusions which are set out within the policy documentation.

In particular, Mrs E's policy excludes:

"Accidental damage/third-party damage/damage from intentional risk taking"

I understand British Gas has said that the leak was caused by changing the boiler from an open vented system to a pressure fed system. While it has not disputed that the work carried out by the private engineer was up to a high standard it has said that it had previously advised against this change as it could cause leaks in the existing pipe work.

While British Gas has not been able to provide any evidence of this advice, given the change in system would mean that pressure would be applied to pipework that had been installed for a non-pressurised system it does not seem to me to be unreasonable advice. This is because the existing pipework would not be designed to handle a pressure fed system without upgrading it. I also note there is a contemporaneous British Gas quotation for an unpressurised system, which suggests such a discussion may have taken place.

Because of this, I consider it unlikely that an engineer fitting a new boiler, which changed the type of system, would not have advised of the possibility of leaks occurring as a result of the change. Therefore, while the work carried out by the private engineer was considered to be of a satisfactory standard, I consider that changing the type of system should be considered as intentional risk taking.

Given that there were no leaks on the system prior to the installation of the new boiler which changed it to a pressure fed system; I consider it likely that the leak was caused by the change on the balance of probabilities. Therefore, I do not consider that British Gas has acted unfairly in declining to repair the leak.

my provisional decision

It is my provisional decision that I do not uphold this complaint and I am currently minded to make no award against British Gas Insurance Limited.

I now invite both parties to provide any further submissions they may wish to make, in writing within one month, after which I will issue my final decision, or further directions."

developments

British Gas acknowledged receipt of my provisional decision and said it had no further submissions. Mrs E responded to my provisional decision and made the following comments;

- British Gas did not advise Mrs E either verbally or in writing against changing to a pressure fed system and neither did the private engineer therefore this could not be deemed as intentional risk taking;
- The pipe work in Mrs E's property is standard 15mm copper and the leak was found on one joint that had been installed incorrectly by a different engineer in 2007 when modifications were made to the pipework to fit a new radiator;

- It cannot be assumed that the leak started after the boiler was replaced as any leaks on the previous system would not have been detected;
- Mrs E's engineer has said that even if the boiler had been changed for another open vented system, leaks would have likely been identified due to the flushing and cleansing of the system.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I accept that Mrs E's engineer may not have provided any advice against changing to a pressure fed system. However, I consider that any change to a pressure system would present a degree of risk as it would disturb the existing installation and therefore there is a risk of a leak occurring. Because of this, I am satisfied that by making the decision to change to a pressure fed system, Mrs E was taking a risk and any damage caused as a result would fall under the policy exclusion of 'intentional risk taking'.

Mrs E has said that it cannot be assumed that the leak was caused by the installation of the pressure fed system and that it might have only come to light as a result of the change as it may not have been evident on the old system. In the absence of any technical evidence though, I must base my findings on the balance of probabilities – that is to say, what I consider most likely to have happened, given the circumstances.

While I accept that it is possible that the leak might have been occurring prior to the installation of the new boiler, given that the loss of pressure began to occur two days after the installation and was not detected during the installation, I consider it most likely that the leak was caused by the pressure fed installation rather than highlighting an existing leak. Mrs E has also said that the private engineer has suggested that if another open vented system was installed any existing leaks would have been identified due to the flushing and cleansing of the system. However, given that the private engineer did not identify any leaks during the installation process, I am satisfied that the most likely cause of the leak was the installation of the new pressure system.

Therefore, I am satisfied that the subsequent leak was most likely caused by the change of system and I do not consider that British Gas has acted unfairly in declining to repair the leak.

For these reasons, I see no grounds upon which I could reasonably depart from my provisional finding.

my final decision

My final decision is that I do not uphold this complaint. I make no award against British Gas Insurance Limited.

Christopher Tilson
ombudsman