

complaint

Miss B & Miss T complain about the way Aviva Insurance Limited has handled a claim made under a buildings insurance policy (for ease I'll only refer to Miss B in this decision).

background

Miss B contacted Aviva when she noticed her kitchen floor appeared to have sunk a bit. She wanted Aviva to inspect the floor. Various inspections took place over several months and can be summarised as follows:

Aviva's inspections

The first inspection wasn't as detailed as subsequent ones but, in summary, it was considered that the issue of damp was a result of a failed damp proof course (DPC). It was noted that works relating to an extension had bridged the DPC and blocked the air vents. It was suggested that a damp proofing specialist was required.

Aviva sent an agent to Miss B's home again in August 2018 and checks were carried out to establish if there was a leak. According to the agent the water meter was read and water usage at the property was stopped for a period. Readings were taken at 15 minutes and then 30 minutes, but the meter hadn't changed. This, it was said, showed there was no leaking pipe. And it was concluded in the inspection that the DPC had failed and there was a possible drainage issue.

In September 2018 a drainage specialist attended to inspect the drains. They concluded there was a problem with defective workmanship in so far as an inappropriate pipework connection causing water to enter premises. And later in September a chartered engineer attended Miss B's home concluding the damage was due to decay exacerbated by inappropriate discharge of water from the drainage system and a lack of ventilation. The engineer said there was no evidence of a rising water table.

Miss B's inspections

A company attended in July 2018 and in a subsequent report (issued in September 2018) it's apparent that this inspection wasn't such that it investigated the *cause* of the presence of water. Advice is given in the report as to what 'next steps' Miss B should take and there are reflections on what a damp proofing specialist had said. But there are clearly no opinions given about the reason for the presence of water. Miss B says she spoke to the surveyor who had attended, and he was of the view that the water was a result of the water table.

A damp proofing specialist attended in August 2018 and made several observations, which included, as part of the remedy to prevent future damp related issues, ventilation needed to be increased by installing sub-floor air vents. While expressly stating the report wasn't a structural survey, the author thought there was a suggestion of a slight leak to the main water supply point and a high-water table causing water entry to property.

Miss B called her home emergency provider who attended in August, but no leak was found. Miss B's view is that the conditions should be considered a flood and so would be covered by the policy. In other information Miss B says the local water authority attended her property and confirmed the ground water was not a result of the foul sewer (I take this to mean from

the drainage pipes). In short, Miss B says that despite remedial works to the drainage pipe work, water is still present and so Aviva is wrong to say that the drainage was the issue.

Our initial investigation

One of our investigators investigated Miss B's complaint but explained why he didn't think it would be fair to uphold it. He outlined what the various companies had said who'd attended Miss B's property. But his view was that the chartered engineer's report explained the cause of the damage and this wasn't an insured event. He said Aviva would need to be provided with equal expert evidence, from a chartered RICS accredited surveyor, to show what the cause of damage was and that it was covered under the policy. If this was the case, the investigator said Aviva should provide cover. The responsibility for providing this evidence lay with Miss B, and in all the circumstances he didn't think Aviva had to do anything further.

Looking at the claim handling service Aviva had provided, the investigator thought Aviva's service was poor. He pointed out that;

- It wasn't made clear the claim had been declined and why;
- Aviva gave incorrect information about timescales when it was known there were backlogs;
- Aviva gave incorrect information to Miss B;
- When Miss B provided further information, Aviva maintained its view the claim should be declined but this wasn't communicated to Miss B.
- And in the light of poor service the investigator thought Aviva should pay £150 compensation for the trouble and upset this caused.

Miss B disagreed with the investigator re-iterating the details of the complaint and the impact the series of events had had.

my findings

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

The crux of this complaint centres on whether the damage to the kitchen floor and surrounding joists and timbers, is covered by the Home insurance policy with Aviva. Aviva says it isn't covered principally because there was no insured event and was due to poor installation of a drainage system. In other words, the cause of the damage isn't covered by the policy.

Miss B's policy sets out the circumstances under which loss or damage to the buildings is covered. These are known as insured perils or events and of relevance to this case are the events of flood and water escaping from pipes on the basis that they are 'water' dominated events. And it's the collection and presence of water that is central to the case.

But like every insurance policy Miss B's contains several limitations and exclusions where loss or damage won't be covered. Aviva has said there isn't an insured event in the first place but also that expert reports show the rotting and decaying timber is a result of a poorly installed drainage system and a lack of ventilation beneath the sub-floor. More specifically, Aviva's view is that the damage has been a *gradual deterioration* because rot thrives in dark, damp and poorly ventilated areas. And the installation of the drainage system was inappropriately connected to the manhole and water discharged into the ground. Damage

due to this was excluded because of *faulty workmanship, defective design or the use of defective materials*.

Since Miss B first notified Aviva of the damage in her home there have been several inspections and professionals attend. Some have been instructed by Aviva and Miss B has had contractors attend at her request. Having considered the reports provided I am particularly persuaded by the views of the chartered engineer and the drainage specialist, both appointed by Aviva. Their collective areas of expertise cover building defects as a result of flood, escape of water and drainage issues. I am satisfied that the evidence shows, on the balance of probabilities, the cause of the groundwater was due to failures/defects in the drainage work. And the effect of this was to provide the environment for the development of rot and decay such that it caused the damage it had to Miss B's home.

Miss B believes the damage is flood related but I'm satisfied the most persuasive evidence shows the groundwater was a result of poorly installed drainage pipes (now rectified by Miss B). And that being the case, I am satisfied Aviva's rejection of the claim was in line with the policy and, in all the circumstances, fair and reasonable. Aviva has said that it will consider any further expert evidence Miss B provides. As her belief is that the water is related to a high-water table then that expert would, I suggest, need to have the relevant qualifications and expertise to comment on such an issue.

Service issues

There is no doubt that Miss B has experienced significant distress and inconvenience due to the damage to her home. It has meant that she's had to make several adjustments within the home as effectively the kitchen couldn't be used until the floor issue had been sorted out. But that doesn't mean Aviva should be held responsible, after all, it didn't cause the damage. So, the issue for compensation is to be determined by what, if anything, Aviva did that treated Miss B unfairly and therefore caused her distress and inconvenience.

I agree with the investigator's points about how Aviva handled the claim. Sometimes communication lines break down because agents and experts are appointed on behalf of the insurer. But Aviva is required to handle a claim promptly and fairly and so, as principal, has responsibility for how its agents deal with a policyholder. The main cause of the impact on Miss B was, in my view, the fact of the damage itself and the consequences it had. Aviva isn't responsible for that but the communication and delays when handling the claim are Aviva's responsibility. And for that I am satisfied £150 is a fair amount.

my final decision

I uphold this complaint about poor claim handling by Aviva Insurance Limited. Aviva must pay Miss B and Miss T £150 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B and Miss T to accept or reject my decision before 12 December 2019.

Sean Hamilton
ombudsman