

complaint

Mr and Mrs M complain that Royal & Sun Alliance Insurance Plc ("RSA") has settled their claim for a water leak under their buildings and contents insurance policy by paying cash instead of fixing the problem. And they say it didn't pay enough for them to fix it.

background

Mr and Mrs M had a leak in their kitchen in late 2013. They complained about how RSA had handled that claim. RSA investigated, and in September 2014 it agreed it hadn't handled the claim well. It paid Mr and Mrs M £1,000 in compensation and £1,250 in disturbance allowance, to make up for the fact that they couldn't use their kitchen while the work was being done. Mr and Mrs M accepted this. But then they say there were further problems, and they complained again.

RSA said that Mr and Mrs M caused further delays. Because of that, in July 2015 RSA wrote to the couple saying it would pay them a cash settlement to deal with the remainder of the works. It thought the rest of the work should take eight weeks to complete, so it paid disturbance allowance for eight more weeks.

Mr and Mrs M say that RSA hasn't given them enough money to finish the work. They also complain about a lack of communication by RSA, the length of time it's taken to sort the problem out, which has meant they've been without a kitchen for over a year. They say the contractors caused rising damp in their house, and left live cables exposed. An unsafe beam was left unrepaired for a long time. And they said the stress of all of this, as well as the continued damp, made the family ill.

Our adjudicator upheld this complaint in part. She thinks RSA shouldn't have given up on doing the work and just paid cash. She thinks it has been unreasonable. But the relationship between Mr and Mrs M and RSA has completely broken down now, so she doesn't think RSA can do the work now. Mr and Mrs M don't want an independent assessment of the works done with RSA, so our adjudicator thinks they should get three separate quotes if they want to show that the scope of the work is incorrect or that the amount they've been paid isn't enough to finish the work.

Our adjudicator doesn't think that the complaint should be upheld on the other points Mr and Mrs M raise. In particular, she doesn't think RSA should pay Mr and Mrs M for the damage to their health unless they supply some more medical evidence of that. But she does think RSA should pay Mr and Mrs M £200 to say sorry for having decided not to do the work and just pay cash instead, the day before work was supposed to start again. And she knows that Mr and Mrs M have had trouble getting another contractor to do the work. She doesn't think RSA has taken this into account in its cash settlement, so she thinks RSA should pay Mr and Mrs M disturbance allowance at the previously agreed rate for another month.

RSA said it didn't think that it should have to pay compensation for deciding to make a cash settlement, and it thought that any extra disturbance allowance should form part of a separate complaint. Because RSA didn't agree with our adjudicator, the case was passed to me for a final 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've reached the same conclusion as our adjudicator, and for broadly the same reasons.

the first complaint

This claim has a rather unhappy history. There were significant delays before Mr and Mrs M made their first complaint in 2014. RSA accepted responsibility for those delays, and paid the couple some compensation. Mr and Mrs M accepted that. It's my understanding that the issues in their current complaint date from after that. And having viewed RSA's file, I also think this payment of compensation was sufficient in the circumstances. So I won't be re-examining issues before September 2014.

lack of communication

It does seem to me that since September 2014, RSA has made great efforts to keep Mr and Mrs M informed of the work going on. Mr and Mrs M have been difficult to get hold of. In particular I can see that they have not been available to answer calls which were scheduled at their request. They have also delayed in returning calls and responding to requests for appointments or further information on their claim.

Mr and Mrs M said they wanted a daily update on the work being carried out. I don't think that is a reasonable request, and I wouldn't expect RSA to comply with that.

time taken to progress the work

Work has progressed very slowly since September 2014. I don't think that most of these delays are RSA's fault. There have been difficulties arranging access to the property, and difficulties providing clean working conditions for the workmen in the property. I don't think that RSA can be held responsible for these problems.

time without a kitchen

RSA offered Mr and Mrs M alternative accommodation. It is clear from the notes on the file that this was offered more than once. Mr and Mrs M chose to stay in their property for most of the time. I understand that they did this as that met the particular needs of their family, but I don't think that RSA is responsible for the difficulties this has caused Mr and Mrs M. I would normally say that if an insured person stays in their home while work is being done, but doesn't have access to all the normal facilities, then the insurer should consider paying them some money to make up for this. We call this disturbance allowance. I can see that RSA has paid Mr and Mrs M a disturbance allowance, in line with the approach normally taken by this service. I don't think RSA needed to do more than this.

illness

Mr and Mrs M said that the ongoing problems with dust and damp in the house had made them ill. And the stress had made other illnesses worse. Our adjudicator noted that the couple hadn't offered any medical evidence of this. I would normally expect any suggestion that a claim has caused illness to be backed up with independent medical evidence. I wouldn't ask RSA to pay compensation for any illness without that.

rising damp

Mr and Mrs M said that the works have caused rising damp in their property. RSA explained that the work hadn't penetrated the floor as far as the damp proof membrane, so the work would not have caused rising damp. RSA initially thought that the continued dampness was likely to be as a result of mopping to remove animal waste in the kitchen. It now seems more likely that the remaining dampness on an exterior wall is as a result of a leaking gutter. If Mr and Mrs M still think that the problem has been caused by works done by RSA, then they should provide RSA with an independent report to support this.

bare cables

Mr and Mrs M said that live cables were left exposed in the working area. RSA said that these cables were tested, and there were no live cables left exposed. If cables had been live, I would expect the new contractors would have mentioned this to RSA, and I can see no evidence that they did so. I don't think RSA's first contractors did leave live exposed cables in Mr and Mrs M's house.

replaced beam

During the works to repair the water damage, RSA discovered a beam in the kitchen ceiling was unsafe. This wasn't related to the water damage, but RSA said it would fix it anyway. It first installed a temporary prop, then did the repair. I have no evidence to suggest that the area was left in a dangerous condition by RSA's contractors at any point.

stopping work

Mr and Mrs M's main concern is that RSA has imposed a cash settlement on them, rather than continue to do the arranged work. There were a number of delays in restarting the work. In June 2015, it seemed as if a way forward had been set out, with changes to how the contractor would access the site, and additional work to keep the site separate from the rest of the house. RSA wrote to Mr and Mrs M setting those conditions out, and asked for written agreement to those conditions before work would restart. It seems to me that those conditions were reasonable. I also think it was reasonable, given previous communication problems, for RSA to ask for confirmation in writing that Mr and Mrs M were content to go ahead on this basis.

It isn't entirely clear to me that Mr and Mrs M ever agreed to those conditions. I can see an email where they say that they have done so, but no email clearly accepting the arrangements proposed without reservation. However, I do think that Mr and Mrs M were under the impression that they and RSA had reached agreement, so on balance I think it was unreasonable of RSA to impose a cash settlement at this stage, particularly as work was due to start the following day. I think that RSA should pay Mr and Mrs M some compensation to say sorry for the stress this caused them.

Our adjudicator suggested that RSA should pay £200 to say sorry for this. Mr and Mrs M think this should be much more. But I have to bear in mind that RSA has continued to pay a disturbance allowance throughout this claim, even though I don't think RSA is responsible for all the delays since September 2014. And RSA has also carried out unrelated repairs to Mr and Mrs M's house. So in these circumstances I think £200 is enough compensation.

the amount of the settlement

Mr and Mrs M said that they didn't think the amount that RSA had paid would be enough to finish the work. In these circumstances, I would normally propose that the insurer pay for an independent report, which would check whether the payment covers all the work needed. But I understand that Mr and Mrs M don't want that, and they have now instructed their own structural engineer. So if Mr and Mrs M want to challenge the amount that RSA has paid, they should provide evidence, and three quotations, to support their view that the scope of works is incorrect, and the settlement amount isn't enough for them to get the rest of the work done. I understand that Mr and Mrs M now consider that this may not be necessary, but the couple have the option to pursue this if they wish.

RSA's settlement amount included a further two months of disturbance allowance. Mr and Mrs M said that didn't allow for the fact that it would take some time to find a different contractor to do the work. Our adjudicator also thought that RSA hadn't taken this into account, so she thought that RSA should pay an additional month of disturbance allowance. I agree with that assessment. I think that there was bound to be a delay while Mr and Mrs M found new contractors to do the work. I think it is reasonable to ask RSA to continue to pay the amount it previously agreed to help the family manage without a kitchen for this short additional period.

further issues

Mr and Mrs M have had their property inspected, and have recently raised some additional concerns. They now say that:

- work to the bathroom has left the floor unsupported,
- the soil pipe has been completely flattened,
- the boiler RSA installed is still leaking water into kitchen,
- there are concerns with the electrics,
- there is damage to their grass caused by a skip.

I can't see that RSA has been given an opportunity to comment on any of these concerns, so I won't be dealing with these in this decision. RSA has said it is happy to consider these separately if Mr and Mrs M would like.

my final decision

My final decision is that Royal & Sun Alliance Insurance Plc should pay Mr and Mrs M £200 in compensation. It should also pay an additional month of disturbance allowance, at the amount previously paid to the family.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 15 February 2016.

Esther Absalom-Gough
ombudsman