

complaint

This complaint concerns a claim that Mr H made to AXA Insurance UK Plc on his home insurance policy for smoke damage to his loft space, which resulted from a fire in the adjoining property.

background

The circumstances of this complaint were set out in my provisional decision of June 2013, a copy of which is attached and forms part of this decision.

Mr H accepted my decision but sent in two samples of the roofing felt which he believes show the fire damage.

AXA did not accept my decision. It considered that there were substantial differences between its surveyor's and the Mr H's surveyor's reports. It could not agree that its surveyor is any less qualified than Mr H's. It proposed that it appoint a third expert, with an expertise in forensics.

It further asserted that I could not justify replacing the whole of the roof felt when the damage was localised.

my findings

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

The difference between the two surveyor's reports is not, in my view over the amount of damage or "bubbling" to the roof felt but the cause of it. I find the evidence of Mr H's surveyor more persuasive, not least because he is a member of The Institution of Fire Engineers. Whilst I note that AXA would like to instruct a third expert, I take the view that it has previously had plenty of time to do that. I note that Mr H's surveyor's report was sent to it in October 2012, when the adjudicator indicated that it could change the outcome of the complaint.

With regard to the amount of felt that needs to be replaced, I have not made a judgement on that. I commented that Mr H's contractor said that the whole of it needs to be replaced, but it is a matter for AXA to decide when it reconsiders the claim.

I note the two samples of roofing felt Mr H has sent in. However I think it preferable to rely on expert opinion as to the cause of the damage.

my final decision

My final decision is that I uphold this complaint and require AXA Insurance UK Plc to:

- reconsider Mr H's claim, in accordance with the remaining policy terms and conditions;
- if it makes a cash settlement to Mr H, add interest at 8% simple per annum from the date of loss, until the date of settlement;

- pay £100 compensation to Mr H for the unnecessary distress and inconvenience he has been put to by AXA Insurance UK Plc's handling of his claim/complaint;
- pay any fees Mr H has incurred by instructing a surveyor.

Ray Lawley
ombudsman

PROVISIONAL DECISION

complaint

This complaint concerns a claim that Mr H made to AXA on his home insurance policy for smoke damage to his loft space, which resulted from a fire in the adjoining property.

background

AXA agreed a settlement for the removal and replacement of the insulation and the cleaning of the loft area. Subsequently Mr H advised of additional damage in the loft as he found that the roofing felt was bubbling. AXA's loss adjuster re-inspected but concluded that the bubbling was not related to the fire damage, but was wear and tear due to the age of the felt (and the policy excluded wear and tear). AXA noted that the photo evidence showed cardboard boxes covered in soot, but with no signs of heat damage.

Mr H thought that before the claim, there was nothing wrong with his roof felt. He referred to the findings of his own tiling contractor, who reported that the heat and smoke of the fire on the neighbouring property had caused the felt to bubble and become brittle, which would lead to the felt breaking down.

Our adjudicator did not recommend that the complaint was upheld. She did not believe that the bubbling which occurred to the roof was consistent with damage caused by fire.

Mr H disagreed. He maintains that the heat from the fire caused the roof felt to bubble. He also told us that his roof is letting in wind and moisture and he has used more energy to keep the house warm than previously. He asked that an ombudsman review his case.

Prior to my involvement, Mr H forwarded us a further report from a surveyor who reported that:

"The damage to the felt takes the form of widespread blistering to the underside of the felt and a noticeable embrittlement in the same areas. The felt is of a bituminous type and of some age and will have suffered some degradation and hardening over the years but there is a clear pattern showing where the effects of the smoke and heat are most noticeable. I have never seen this type bituminous felt damaged in this way other than by heat and it is my conclusion therefore that the felt has been damaged by the fire in the adjoining property."

We shared this information with AXA. But it still decided to decline the claim.

my provisional findings

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

Our normal approach is to consider the expert evidence, and it is the weight of such evidence that will determine my view of the case.

In my opinion, the weight of evidence, based upon Mr H's surveyor's and contractor's reports, suggests that the damage to the roofing felt has been caused by the fire at the neighbouring property and the heat that this generated.

I am not persuaded by the findings of the appointed loss adjuster that the bubbling of the felt is due to wear and tear. Such a condition would typically be associated with fire/heat, as opposed to wear and tear. I also do not apply too much emphasis on the issue of the cardboard box and the lack of damage to this, as the damage appears to be localised. I feel that it is more appropriate to be guided by the expert opinions.

Mr H's contractor suggests that the whole of the roofing felt will have to be replaced, which may be appropriate. I appreciate what AXA says about the age of the felt, but Mr H's surveyor did report that the fire damage would result in the potential for wind blown rain to come into the roof space. It may well be that but for the fire the felt would have lasted a good deal longer. I propose to direct that AXA reconsider the claim.

I have considered whether to make an award for distress and inconvenience. Having weighed up all the circumstances of this case, I am satisfied that a modest award of compensation would be appropriate. I feel that AXA acted wrongfully in rejecting this claim, particularly in maintaining its position once it had received Mr H's surveyor's report. Additionally it should refund any fees Mr H has paid for his survey report.

my provisional decision

My provisional decision is that I am minded to uphold this complaint and require AXA to:

- reconsider Mr H's claim, in accordance with the remaining policy terms and conditions;
- If it makes cash settlement to Mr H, add interest at 8% simple per annum from the date of loss, until the date of settlement;
- pay £100 compensation to Mr H for the unnecessary distress and inconvenience he has been put to by AXA's handling of his claim/complaint
- pay any fees Mr H has incurred by instructing a surveyor.

Ray Lawley
ombudsman