

complaint

Mr D is unhappy that Admiral Insurance Company Limited turned down a claim on his car insurance policy.

background

On 28 March 2016 Mr D's car was involved in a collision with two large cast iron plant pots in the middle of town. The car was badly damaged and was obstructing part of the road.

Mr D was in the car at the time but he's said it was his wife that was driving. She's a named driver on the policy.

He says she left the scene of the accident shortly after. Mr D remained with the car and arranged for his brother to come and help him. Together they towed the car a short distance to a nearby car park. Mr D operated his own car whilst his brother operated the towing car.

Shortly after they had moved the car, the police arrived. They'd been called by a witness to the incident. Mr D was breathalysed and then arrested. He was later charged for and convicted of being in control of the car whilst under the influence of alcohol. The charge only related to the towing of the car. Mr D says the collision with the plant pots wasn't discussed with the police.

Mr D made a claim on his insurance. He explained what had happened which included telling Admiral that his wife had been driving at the time of the collision. Admiral began to investigate. As there had been mention of drink driving Admiral felt there was a need to obtain a police report to confirm what had happened.

Once received, the report appeared to show that Mr D had been recorded as having been in control of the car at the time of the collision. Admiral used that as a basis to decline the claim for the damage to the car. It wouldn't pay out on a claim where the driver had caused damage whilst under the influence of alcohol.

Mr D was unhappy and so asked us to investigate. One of our investigators looked into everything and obtained some further evidence. Having done so, the position has changed somewhat. Admiral accepts that Mr D was not necessarily named by the police as the driver at the time of the collision. But it is still unwilling to meet the claim. It says there isn't any evidence to show that Mr D's wife was driving at the time and so it's continued to hold him responsible.

Our investigator gave his opinion on the case and felt Admiral were acting fairly. He couldn't see there was enough evidence to show that someone other than Mr D had been driving the car at the time it hit the plant pots.

Mr D disagreed. He feels it should be for Admiral to prove it was him driving if it wants to hold him responsible. He's asked for an ombudsman to review his case.

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 evidence available here is limited. And that looks to be one of the main sources of disagreement. Mr D feels Admiral need to prove it was him driving during the crash. Whereas Admiral feel that Mr D needs to present further evidence to show it was his wife driving.

It's not for me to decide who was driving at the time. Instead, I'm making a decision on whether it's fair and reasonable for Admiral to hold Mr D responsible based on the information and evidence available. Having reviewed everything, I believe it is.

It's true to say there isn't definitive evidence to show who was or wasn't driving when the car hit the plant pots. And from what I've seen it looks unlikely that any more evidence will be forthcoming. I've spoken with the police and it appears that there is no further CCTV evidence available. The footage that is available only shows what happens after the car has been involved in the accident.

My reason for not upholding the case really comes down to a lack of evidence to suggest anyone else- and namely Mr D's wife- was in any way involved. There are several sources of information relating to the events of 28 March 2016:

- the call from the witness to the police in which the accident and towing of the car is reported;
- the CCTV;
- the arresting officers' reports; and
- the interview with Mr D at the police station.

But Mr D's wife is not mentioned and does not appear at any point in any of these pieces of information/evidence. That's despite Mr D being given the opportunity to fully explain what had happened during his formal police interview.

When Mr D is interviewed, he replies 'no comment' to all of the questions he's asked. The police officer asks for a description of what had happened, including the collision with the plant pots. There's also a question on whether anyone else had been given permission to drive the car. I'd expect Mr D to have given details about the accident, including who was driving.

Mrs D isn't mentioned by the independent witness as having been involved or present at all. That's despite the call being otherwise quite detailed about what's happened.

There's no mention of Mr D's wife in any of the reports the police have made on the case. I'm not sure why she wouldn't have been mentioned at all, although Mr D suggests he wasn't asked about the cause of the accident.

Mr D's wife doesn't appear in the CCTV footage at all. It looks to have started within 10 minutes of the crash. I've taken that from the time stamp on the footage and the time of the call to the police. Although I do accept that, if Mr D's wife had been there, she may have left by this point, as Mr D says.

I'm not discounting what Mr D has said. His version of events is evidence in itself. But given the other evidence and information that is available I can't understand why there's no mention of someone else driving the car until Mr D calls Admiral a couple of days after the

incident. There's very little to suggest someone other than Mr D was driving. Given that, I'm satisfied Admiral's decision to not pay the claim is fair and reasonable in the circumstances.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 13 July 2017.

Ben Murray
ombudsman