

The complaint

Mr C complains Covea Insurance plc (Covea) declined a claim made under his landlord's property insurance policy. Mr C also holds Covea responsible for a loss of rental income.

Where I've referred to Covea below, this also includes any actions or communication carried out by agents appointed to act on Covea's behalf.

What happened

Mr C owns a property which was let to a tenant, and he insures the property with Covea.

When the tenant moved out, Mr C discovered water staining and damage to the bedroom and shower walls, and kitchen ceiling below, so he made a claim to Covea.

Ultimately Covea declined the claim as they said the damage had been caused gradually, which is excluded under Mr C's policy.

Mr C was unhappy with the claim decision. He also says Covea's handling of the claim resulted in him losing rental income. So, he approached this service.

Our investigator looked into things, but she didn't uphold the complaint. She said the claim decision was fair as she thought the damage had occurred gradually. She also said she hadn't identified any avoidable delays, so wouldn't be asking Covea to pay for any loss of rent.

Mr C didn't agree and asked for a final decision from an ombudsman.

What I've decided – and why

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

Having done so, and whilst I appreciate it will come as a disappointment to Mr C, I've reached the same outcome as our investigator and for the same reasons.

The claim decision

When the tenants residing in Mr C's property vacated, the agent who manages the property on Mr C's behalf carried out an inspection. They notified Mr C that there was water staining and damage to the bedroom and shower walls, and kitchen ceiling below.

A claim was made to Covea but subsequently declined on basis of the following exclusion in Mr C's policy:

"Damage caused by or arising from or consisting of:

(c) gradually operating causes, including but not limited to atmospheric or climatic conditions, wet or dry rot, fungus, rust, corrosion, woodworm, moths, insects, vermin or pests”

Mr C says Covea hasn't considered there is historic damage and issues from around six years before which he isn't claiming for, in the same area as new damage which he is. Mr C also says that Covea's loss adjuster who declined the claim didn't actually visit the property either.

Having considered all the information provided, I don't think Covea has acted unfairly by declining the claim relying on the exclusion outlined above. I'll explain why.

Mr C arranged his own contractor to inspect the damage and they said:

“I was recently asked to renovate a shower cubicle and surrounding area for (Mr C) at (address).

The area showed signs of water damage around the rear of the shower cubicle plus the kitchen ceiling immediately below it.

Initially I removed some of the exterior plaster board from the back and side of the shower cubicle, just above floor level, to provide an estimate of costs. I also lifted the carpet to see the extent of the damage to the floor and ceiling below.

Upon starting the repairs I was able to further remove more plaster board, the insulation between the shower interior wall and the exterior plaster work, and remove the shower tiling.

This allowed me to see that the immediate damage has been caused by a failure of the sealant around the shower tray. Water from this sealant failure had then leaked into the floor cavity and was being soaked up by the plaster exterior wall, the chipboard flooring and also the plaster ceiling in the kitchen below. The insulation material in the stud wall had not absorbed much water.

I have been a general building contractor, plumber and electrician for 25+ years and it is my opinion that whilst there is some residual evidence of a prior leak (staining to still sound flooring timber/ceiling joists), the damage and catastrophic leak that required immediate attention was caused by a recent leak within the last 12-24 months.”

They also mentioned they performed some handyman repairs in other parts of the property in the last 24 months and didn't see a leak at that time.

Mr C's contractor concluded that the *catastrophic* leak occurred in the last 12-24 months, so some considerable time prior to being reported. And given they said it was a failure of the sealant, this would have been allowing continued water to leak, causing damage to worsen up until the point it was reported.

Covea's contractor also carried out an inspection, with numerous photos taken. Whilst I note Mr C says Covea's loss adjuster later appointed didn't attend, they relied on all the information including the numerous images already taken to reach their decision.

They concluded:

“The claim was submitted for water damage to a stud wall and associated tile finishes to a shower cubical and to water damage to the kitchen ceiling directly below the shower.

It is clear from the pictures attached there is long standing rot to the joists and the decking. (name) confirmed he had a repair completed six years ago for the same issue. The pictures also show this repair with lighter timber between the joists.

The repair timber has been fitted between the long-standing rotten timbers; thus the repair was not completed correctly and the rotten timbers should have been removed and replaced.

The cubicle was installed some twenty years ago as part of the refurbishment. The contractor has simply built a timber stud wall into the bedroom area, covered the stud with plaster board both sides and tiles inside the cubical. This is an inadequate construction for a shower and water-resistant board should have been used on the inside.

The shower was destined to fail in this way from the day it was first used.”

So, they concluded that the shower construction was incorrect, which has allowed damage to occur gradually over time. And I haven't been provided with anything which demonstrates they reached an incorrect conclusion. From both experts' comments, they've concluded the damage is both historic and occurred gradually, rather than the result of a recent, singular one-off event.

Whilst I do note that Mr C's letting agent says they didn't notice the damage in the past, having seen the images, I think it's evident the leak has been ongoing for a prolonged period of time given the extent of the staining, black mould on the grouting and how much damage and rot is present. And I think this would have been visible for some time. Both the experts appointed by Covea and Mr C conclude that it is historic and has occurred over time too.

With this in mind, I'm satisfied on balance, that the damage occurred gradually, which is excluded under Mr C's policy. Therefore, I don't think that Covea has acted unfairly by declining the claim on this basis.

I also note that Mr C says even if the damage was caused gradually in the last 12-24 months, it's clear there has been a leak, and he's been insured with Covea for the last three to four years. However, the policy covers one-off incidents of damage, not continued damage which gets worse over time. And the exclusion Covea is fairly relying on reflects that.

Loss of rent

Mr C is also claiming for loss of rent for the period his property was without tenants, and he holds Covea partly responsible for that.

Mr C's policy terms and conditions outline:

“Cover

In the event that a Premises suffers Damage insured under Section 1: Property Damage of the policy occurring during the Period of Insurance We will indemnify You for:

Loss of Rent.”

However, as explained, I don't think Covea has acted unfairly by declining Mr C's claim based on the gradual damage exclusion. So as an insured event hasn't occurred under the terms, loss of rent isn't covered under Mr C's policy.

Mr C says that Covea is responsible for two of the three months where he incurred a loss of rent due to their handling of his claim. Whilst the policy terms don't strictly cover the loss of rent as an insured event hasn't occurred, if I was satisfied that Covea was solely responsible for delays, on a fair and reasonable basis, I could direct them to compensate Mr C the equivalent amount of financial loss he incurred.

However, I'm not persuaded that Covea is solely responsible for delays, so I'm not going to direct them to pay Mr C the equivalent of rental income for this period. I'll explain why.

The tenant moved out of the property in November 2022. And a claim wasn't made to Covea until December 2022. So, the tenant didn't move out as a result of the damage, instead the property was already empty by that time, so no rent was due at that point in any event.

Mr C obtained a quote from his own contractor which he provided to Covea. An initial inspection to consider the repairs required was initially completed by Covea in December 2022. Due to the cost of repairs, Covea said a second quote was also required.

Covea considered the quotes provided and initially agreed Mr C could go ahead with his on 6 January 2023. But later that day, Covea said a loss adjuster was needed to assess the claim before it could proceed.

Whilst Covea said that Mr C could proceed on 6 January 2023, they reversed this decision on the same day. As by that point they hadn't been provided with all costings for works, or a cause of damage report. I don't think Covea acted unreasonably in requiring a loss adjuster at that stage to be appointed. Given there was historic damage not being claimed for, in the same area of damage Mr C did want to claim for, it's not unreasonable for Covea to need to consider matters further against the policy terms with the involvement of a loss adjuster. And from the notes, Mr C also needed to amend the quotes to remove that additional damage too.

Mr C says they attended on 17 January 2023. After review, Mr C says he was told towards the end of January that it was gradual damage and not covered, and this was followed up in writing shortly after. Mr C then appointed his contractor to complete works and the invoice for repairs is dated 15 February 2023. A complaint wasn't raised by Mr C until 28 February 2023, and Covea had eight weeks from then to issue their final response, which they did, on 14 April 2023.

Having considered everything that occurred, I don't think there were any unavoidable delays solely as a result of Covea's handling of matters. Therefore, I'm not going to direct them to compensate Mr C the equivalent of two months' rent.

My final decision

It's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 September 2023.

Callum Milne
Ombudsman