

The complaint

Mr J complains that U K Insurance Limited (“UKI”) unfairly declined a claim under his Property Owners insurance policy.

Where I refer to UKI, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

Mr J is insured by UKI for a property he lets out.

In December 2022, Mr J's tenant vacated the property. When he inspected it in early January 2023, he saw that plaster was coming off in the bathroom and there was a soft spot on the floor. On the advice of a contractor he'd appointed, the floor was excavated, and he discovered the joists were sodden and a pipe had burst. So he made a claim under his policy for damage to the bathroom and kitchen.

UKI arranged for a loss adjustor to inspect the property, but when they got there they found the repairs were already underway. Because of this, they couldn't determine the cause of the loss to satisfy themselves that an insured event had taken place. They considered whether the loss could be covered as accidental damage. But they thought that, due to the significant timber rot, it was likely the damage had occurred gradually over a period of time which was excluded.

UKI declined cover under the policy on the basis Mr J hadn't notified it of the claim immediately, which had prejudiced its position as remedial works had started and it wasn't possible to identify the cause of the loss. And there is no cover for gradual deterioration.

Mr J explained that he initially hadn't intended to claim, and it was only after he saw the extent of the damage that he contacted his insurers immediately. And once he'd reported it, he proceeded with the repair work so that further damage didn't occur. He said he inspected the property in November 2022 and had seen no signs of damage, so he didn't agree the damage was gradual.

UKI didn't change its position, so Mr J brought a complaint to our service. But our Investigator didn't think UKI had acted outside of the policy terms or treated Mr J unfairly. As Mr J didn't agree, the complaint has been passed to me for a final decision.

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.

The terms and conditions of Mr J's policy say there's cover for damage caused by an *“escape of water from any tank, apparatus, or pipe”*. The onus is on Mr J to prove he has a valid claim, so he needs to demonstrate to UKI that the damage to his property arises from these circumstances.

Mr J says the leak was from a burst pipe but as repair works had been carried out, the loss adjustor was unable to determine this was the proximate cause. And I've been given little in the way of evidence to support what happened from Mr J other than his own commentary. Mr J didn't provide UKI with any photos from before the works were started or an expert's opinion on the cause of the damage.

UKI's loss adjustor did a full investigation to determine whether this was an insured event and I've been provided with a copy of their report. Within this, the following conversations have been documented:

- Mr J's contractor, who attended the property in January 2023 to quote for the repair works, provided photos showing the property in a state of disrepair. The shower has gaffer tape along the grouting of some of the tiles in the bathroom, there are patches of plaster work in the kitchen, damp patches on the walls, and a hole in one of the ceilings.
- Mr J's former tenant who lived in the property for 12 years said she'd reported the problems with the bathroom to Mr J, but no repair works had been carried out. She'd implemented some temporary repairs to enable her and her family to be able to use the shower, including using expanding foam and gaffer tape. She also advised of some previous leaks and issues she'd reported over the years, which hadn't been fully repaired.
- A contractor, who'd been employed by the next-door neighbour in 2015, said he'd found two feet of water in the void below the neighbour's house. The joists were so badly damaged that he'd had to replace them. The joists run under all houses in the terrace, and he thought the damage had been caused by a leak coming from Mr J's property. He explained this to Mr J and offered to fix the leak and repair his joists, which he assumed would be damaged like the neighbours, but Mr J declined.

I'm satisfied these comments support UKI's conclusion that the condition of the property was in a state of disrepair and that there were various previous issues occurring over time that were most likely the cause of the damage Mr J is now seeking to claim for.

The loss adjustor concludes that due to Mr J's delay in notifying the claim, by which stage remedial works were underway, it has concerns *"as to the cause of the damage and how long it had been ongoing given the condition of the joists"*. They said there is *"sufficient information and evidence from the tenant and the builder(s) to show that there have been previous problems with leaks under the floor which pre-dates policy inception [in March 2022]"*. This further suggests to me the damage was long-standing.

From the information provided by both sides, I'm not satisfied that Mr J has demonstrated the damage to his property was as a result of an escape of water from a tank, apparatus, or pipe which occurred from a single event during the period of insurance. So, I think UKI's conclusion that no insured peril has taken place here is a fair one.

I also note UKI has pointed to exclusions under its policy that say the insurance won't provide cover in the event of gradual deterioration or lack of maintenance. And in light of the evidence – even if I was persuaded that an insured peril had taken place (which I'm not) – I'd be satisfied the evidence supports that the most likely cause of the damage arose from gradual deterioration and a lack of maintenance. This is because Admiral has provided the expert opinion of its loss adjustor and the testimonies of independent third parties as to the general lack of maintenance to the property.

Without contradictory evidence from Mr J to challenge this, I can't fairly say UKI couldn't rely on the loss adjustor's investigation when making a decision on cover. So it follows that I don't think UKI has acted outside of the policy terms or unfairly here.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 May 2024.

Sheryl Sibley
Ombudsman