

The complaint

Mr W complains that Covea Insurance Plc (Covea) hasn't settled a claim made under his let property insurance policy.

What happened

Mr W owns a property that he lets out to tenants. He also has an insurance policy for the property underwritten by Covea.

The tenant living in Mr W's property sadly passed away. When the Police allowed Mr W to gain access to his property, he discovered significant amounts of damage and debris present.

Mr W has refurbished his property and replaced missing and damaged items. Mr W is seeking reimbursement of these costs from Covea under his insurance policy. He says this was malicious damage caused by the tenant so should be covered.

Covea considered things but they said the majority of the damage being claimed for appeared to be as a result of wear and the tenant's lifestyle and lack of care, rather than due to an insured event. They also referred to an exclusion for wear and tear which they said applied to some of the items being claimed for. Covea said a small number of items may be covered but could also fall below the policy excess.

Mr W remained unhappy, as he says everything he is claiming for should be covered, so he approached this service.

One of our investigators looked into things. Initially she said that the damage was either caused maliciously or accidentally, so she said Covea should reimburse what Mr W had paid in repairing and replacing items with 8% simple interest added to the settlement amount. Covea didn't agree.

The investigator revisited things and she said the following items should be considered maliciously damaged and covered under the policy:

- Flooring
- Furniture
- Cupboard doors and drawers

And she said the following should be considered accidentally damaged and covered under the policy:

- Kitchen appliances, including kettle, fridge and freezer
- Hoover
- Toilet seat

But she also said the cooker wouldn't be covered as it was suffering wear and tear.

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

I reached a different outcome to our investigator, so I issued a provisional decision to give both parties an opportunity to comment on my initial findings before I reached my final decision.

What I provisionally decided – and why

In my provisional decision, I said:

"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 a different outcome to our investigator, so I'm issuing a provisional decision, to give both parties an opportunity to comment on my initial findings before I reach my final decision.

I understand that Mr W discovered his property was in a very poor condition when he was able to gain access after the tenant sadly passed away. Mr W said in his submission to this service:

"I've had to completely refurbish the flat at a cost of approx £5000"

However, Mr W's policy isn't designed to provide cover to refurbish his property at the end of a tenancy or the refurbishment needed to make it desirable or liveable for the next tenant, regardless of what condition it is left in by the outgoing tenant. Instead, it is an insurance policy, designed to cover repairing damage and replacing items following unforeseen events, in line with specific terms and conditions.

Mr W says that his property has been maliciously damaged. His insurance policy covers:

"Malicious Damage by Residential Tenants

We will pay You for the Damage caused by the malicious actions of a tenant their family or guests occupying the Buildings or portion of any Building for residential purposes.

We shall not be liable for Damage by theft or attempted theft caused by a tenant their family or guests occupying the Buildings or portion of any Building for residential purposes."

The starting point for a malicious damage claim is that the damage needs to have been caused with malicious intent, damaged deliberately, to cause Mr W and his property harm. But, on balance, I don't agree with Mr W that this is what has happened here.

Mr W said the tenant had alcohol abuse issues, as he discovered an extensive number of empty bottles across his property. The images do show a large number of empty bottles, along with rubbish in all rooms. Mr W says that the flooring and some furniture has been damaged by both urine and alcohol being spilt on it. However, I don't think it has been shown by Mr W that this was done with malicious intent, i.e., done deliberately to cause Mr W and/or his property harm. Instead, I think it is likely this occurred as a result of a lack of care, and/or neglect, by the tenant.

There are also several other areas of damage being claimed for by Mr W, and this includes the cost of replacement kitchen appliances and other furniture. However, again, I don't think it's been shown by Mr W that these were maliciously damaged i.e. damage was done with intent to cause harm to him and/or his property. Instead, I think it is likely this also occurred as a result of a lack of care, and/or neglect, by the tenant.

Having considered everything provided, unless anything changes as a result of the responses to my provisional decision, I'm not persuaded it has been shown by Mr W that malicious damage has been caused, or that this part of his insurance policy applies. Instead, I think that it has most likely, in the main, been caused by a lack of care by the tenant, rather than with malicious intent.

However, Mr W's policy doesn't just cover malicious damage, instead this a specific insured event where there is additional cover alongside the main cover.

Mr W's policy is an 'all risk' type policy which means damage is covered, unless otherwise excluded. The policy says it covers:

"Cover

Damage occurring at or within 50 meters of the Premises to the Property Insured described in the Schedule occurring during the Period of Insurance."

And 'damage' is defined as:

"Damage

Accidental loss destruction or damage unless otherwise excluded."

So, as a starting point, accidental loss destruction or damage needs to have occurred for a potential claim to be made. However, I'm not persuaded all the damage that Mr W reported should be covered under this part of the policy either, for various reasons. I'll explain further.

Our investigator asked Mr W for a list of all the damage and repairs. Mr W said he didn't have a collated list, but then did provide a list of some of the repairs and replaced items, with costs, which he said was based on his receipts. This was listed as:

Item	Replacement cost
Wardrobe	£211
Two-seater sofa	£490
Office desk	£75
Office chair	£45
Microwave	£124
Fridge	£133
Freezer	£133
Oven	£266
Replace damaged flooring	£1,472
Work undertaken due to damage caused by tenant	£1,128
Redecoration	£699

Mr W also claimed for the cost of the following items from Covea, but they weren't included in the list he sent our investigator:

- hoover
- kettle
- toilet seat
- light shades
- toaster
- bins
- roller blinds

As I say, I'm not persuaded it has been shown by Mr W that malicious damage has occurred. So, I've considered whether Mr W has shown he has a valid 'damage' claim for these items being claimed for, in line with the remaining policy terms.

However, I'm not persuaded that Mr W has shown he has a valid 'damage' claim for the following items at this stage:

- Wardrobe
- Office desk
- Office chair

I say this because Mr W hasn't shown how these items have been damaged, so he hasn't demonstrated he has a valid 'damage' claim as defined in his policy. If Mr W does have any evidence to support they were damaged, rather than simply used and needing replacing ready for a new tenant, then he'd need to submit that evidence to Covea to consider further.

But even if Mr W did show that, unless he could demonstrate they were all damaged in one incident, then it's unlikely a claim for these items would be successful. I say this because unless they were damaged in one single incident, a separate claim would need to be made for each item.

Mr W's policy has an excess for each claim. And where there are multiple incidents and occasions of damage, an excess would apply to each. The applicable excess for Mr W's policy is £250.

But each of these items is below the policy excess of £250, so if an individual damage claim was made for each of them there wouldn't be a valid claim in any event, even if Mr W had shown it was damage as defined.

Mr W has replaced the following items and claimed for reimbursement of the cost:

- *Microwave*
- *Oven*

However, the microwave and oven appear covered in burnt on food, mouldy food and grime. Along with the microwave being extensively rusty. I don't think being covered in food and grime would be accidental loss damage or destruction as 'damage' is defined, but in any event, that would have happened over time too.

Mr W's policy has the following general exclusion:

"Damage caused by or consisting of:

(b) wear, tear or depreciation or diminution in value"

So even if I was persuaded it was damage as defined, which I'm not, I think this exclusion would apply. But even if it didn't, the microwave would fall below the excess in any event so wouldn't be covered on this basis alone.

The oven does fall above the excess of £250, but the replacement cost to Mr W was £266. So, the most Mr W would ever be able to claim for this item would be £16. But, as I say, I don't think Mr W has demonstrated he has a valid claim for 'damage' as defined. From what I've seen of the images, again it is covered in old food and debris, which would have happened over time, which is excluded. And I don't consider this to be 'damage' as defined either.

Mr W has replaced the fridge and freezer and claimed for reimbursement of this. I don't think Mr W has demonstrated these would be covered, as he hasn't shown they have been 'damaged' (beyond two freezer drawers being cracked) as defined. But in any event, both of these items were below the policy excess so wouldn't be covered regardless of this.

Mr W has also replaced the sofa, which is above the excess. But again, I don't think it has been shown this was damaged in a one-off event. Instead, the sofa appears to have extensive wear and multiple rips and tears, and this is unlikely to have happened in one single event. And Mr W has also explained it was soaked in alcohol and urine too. But this would have happened over time too, so wouldn't be covered due to the above exclusion.

Beyond these items, Mr W says he has also had to pay to replace damaged flooring.

From the limited images, I can see the flooring and carpet were left in a very dirty condition by the tenant, and Mr W says they have been covered in alcohol, urine and cigarettes. But I don't think it's been shown 'damage' was caused as defined in the policy, which required the flooring to be replaced, rather than being able to be cleaned. I also think that this would have been caused over time too, rather than in a one-off incident. So, I think the exclusion may also apply here. But only limited information has been provided to Covea by Mr W regarding these items. So, if Mr W has any additional information to show the flooring was 'damaged', as defined, and should be covered under his policy, he should send this to Covea for consideration in the first instance.

Mr W has also claimed for what he says was:

"Work undertaken due to damage caused by tenant "

I've seen some images of damaged drawer fronts in the kitchen. And Covea also note that Mr W said the kitchen door, numerous light switches, various door handles and plug sockets had been reportedly damaged too. And Covea recognised these might be covered in principle under the policy cover for 'damage' as defined. But again, it's unlikely this happened in one incident. And each incident would be a separate claim and excess, of which some, if not all, would fall below.

But without a breakdown of what "Work undertaken due to damage caused by tenant" actually entails, or the associated individual costs, it is impossible to conclude what Mr W is claiming for here. So, if Mr W is able to provide a breakdown of what this is, and that this should be covered under his policy (bearing in mind the excess and exclusions), he should send this to Covea to consider further. But at this stage I can't say Covea should pay this cost.

In addition, redecoration costs have been claimed for by Mr W, but Mr W hasn't shown this was required due to 'damage' as defined. And as I say, refurbishment post tenant isn't something which the policy provides for. Again, if Mr W has anything to show that this should be covered by his policy, he should provide this to Covea to consider further. But based on what I've seen, I can't say Covea should pay this cost under the terms of Mr W's policy.

Mr W has also asked for reimbursement of the costs he incurred in replacing a Hoover, kettle, toilet seat, light shades, toaster, bins and roller blinds. But he hasn't shown these were 'damaged' and should be covered under his policy. But in any event, they would likely have been damaged at different times, and would also likely fall below the policy excess.

And because Mr W has only provided limited information about these items and whether they were damaged or missing, Covea has also said that if any are missing and considered stolen, there is also an exclusion for theft by tenants, and unless there is force and violence to enter or exit the property. But if Mr W has any further evidence to support these items should be covered, he should send this to Covea to consider further. But at this stage, I can't say that Covea should be providing reimbursement of these items.

I appreciate the tenant left Mr W's property in a very poor condition, which has resulted in costs to Mr W in refurbishing and preparing the property ready for a new tenant. But as I say, the policy isn't there to refurbish his property at the end of a tenancy. And Mr W hasn't provided sufficient evidence to support any of the damage, or items, being claimed for should be covered. But I've also outlined where I think there may be a potential claim Mr W could make, but he hasn't provided sufficient evidence to support that at this stage.

But to be clear to both parties, if Mr W has any new evidence to support he has a valid claim(s), he would need to send this directly to Covea to consider in the first instance rather than to this service in response to my provisional decision, as I wouldn't be able to consider that as part of this complaint.

With the above in mind, unless anything changes as a result of the responses to my provisional decision, I'm not minded to uphold this complaint."

So, I wasn't minded to uphold the complaint.

The responses to my provisional decision

Mr W responded to the provisional decision. He said he always kept the property to a high standard and cared for his tenants. He also highlighted he had never made a claim until this incident.

Mr W said that when an unfortunate event occurs, action is needed to be taken urgently to prevent costs, and therefore it's not always possible to gather evidence. He says he's genuinely suffered losses due to malicious damage. He also said from the images provided, he doesn't understand how it can't be malicious damage, and everyone he has shown the images to was also appalled at what the tenant did.

Covea responded and said they accepted the provisional 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.

And I've thought carefully about the provisional decision I reached, and the responses to it. Having done so, my final decision remains the same as my provisional decision and for the same reasons.

Mr W has said he always kept his property to a high standard and doesn't see how it can't be malicious damage.

I don't dispute that Mr W keeps his property to a high standard, but as I explained in my provisional decision, the insurance policy isn't there to cover refurbishment at the end of a tenancy. I also explained in my provisional decision why I wasn't persuaded the damage had been shown by Mr W to have been caused maliciously, and nothing has been provided in response to my provisional decision that persuades me to reach a different conclusion on that point.

I note what Mr W says about not always being able to gather evidence. But it is Mr W who is making the claim, so the onus is on him to demonstrate that an insured event has occurred. Based on what I've seen, I'm not persuaded he's done that, for the reasons explained in my provisional decision. This includes that it hasn't been shown that the damage was caused maliciously, or damage should be covered and isn't caught by a policy exclusion such as wear and tear, and many of the items being claimed for would also be below the policy excess in any event. But I also said that if Mr W does have any evidence to show an insured event has occurred, he should submit this to Covea for consideration.

Whilst I note Mr W's additional comments, nothing has been provided which leads me to reach a different conclusion to that reached in my provisional decision, and for the reasons explained in that.

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 W to accept or reject my decision before 6 March 2024.

Callum Milne
Ombudsman