

## **The complaint**

B has complained about HCC International Insurance Company Plc's decision to turn down its claim under its Residential Property Insurance policy for damage caused to a flat it owns by an escape of water.

B is represented by Miss C and Mr C. I mistakenly referred to Miss C as Mr S in my provisional decision, for which I apologise.

HCC is the underwriter (insurer) of this policy. Much of this complaint concerns the actions of its appointed agents. As HCC accepts it is accountable for the actions of its agents, in my decision, any reference to HCC should be interpreted as also covering the actions of its appointed agents.

## **What happened**

Miss C has said that she and Mr C were renovating B's flat and noticed a small water stain on the ceiling in the kitchen in May 2021. She's said they checked with the tenant of the flat above who said that a washing machine had been leaking, but this had been replaced and there were no other leaks. Miss C and Mr C painted over the stain.

B took out the policy with HCC on 19 June 2021. B then let the flat out on 26 June 2021. Miss C originally said she and Mr C were informed water marks appeared on the bathroom ceiling in July 2021. But from what Miss C has said more recently it is clear they actually found out about these at the beginning of June 2021. Miss C has said the letting agent of the flat above told them that the issue, which was due to a problem with the bath, had been resolved at the end of June 2021. And, once these works were complete, Miss C and Mr C arranged for the bathroom ceiling in B's flat to be repainted.

Miss C has said she and Mr C were notified by B's letting agent that water marks had appeared on the kitchen and bathroom ceilings in B's flat in September 2021. Miss C has said she or Mr C visited the flat above at this time and the kitchen was being renovated and there was evidence of escape of water from waste pipes on the floor. Miss C has said she and Mr C were also told that a plumber had inspected the flat above and that water was also escaping from the tiles around the shower and collecting on the floor. Miss C has said she and Mr C contacted the letting agent of the flat above again to check if the source of the water that had damaged the ceiling in B's flat was the same as in July. Miss C has said they were told it was a new and separate issue. They then obtained a report from a damp expert and were advised the kitchen and bathroom ceilings in B's flat needed to be replaced and they obtained a quotation for this work.

Miss C and Mr C then made a claim for B under its policy in September 2021 for the damage that had occurred in this month. HCC considered the claim. I can see it decided that if it accepted the claim, it would consider it on the basis the property was occupied at the time and charge the lower excess applicable. This was because the policy was set up on the basis B's flat was unoccupied and it seems HCC had not been told it had become occupied soon after the policy started.

However, HCC turned down B's claim on the basis Miss C reported the date of the damage as May 2021, which was before the policy with it had started. Miss C complained on behalf of B. She said she did not say this was when the damage occurred. HCC issued a final response letter on 25 January 2022 in which it said it was satisfied the decision to turn down B's claim was correct.

Miss C and Mr C asked us to consider B's complaint. One of our investigators did this. She said she was satisfied that HCC was entitled to turn down B's claim on the basis B had not shown the damage claimed for occurred after its policy with HCC had started.

Miss C on behalf of B didn't agree with the investigator's view. She provided copies of emails from the letting agent of the flat above B's flat, which she said show major work had been carried out by the end of June 2021 to address the leak which had caused damage to B's flat in June 2021. And she thought this showed the damage B had claimed for occurred in September 2021 after its policy had started.

I issued a provisional decision on 23 January 2024 in which I set out why I'd provisionally decided to uphold B's complaint and make HCC settle its claim and pay compensation for the inconvenience caused by its decision to turn it down.

I gave both parties until 6 February 2024 to provide further comments and evidence in response to my provisional decision. Miss C has responded to say she agrees with my provisional decision and has no further comments or evidence to provide. HCC has not provided any further comments or evidence.

### **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.

As I said in my provisional decision, B's policy covers damage caused by escape of water from fixed water tanks, apparatus or pipes. Therefore, as I see it, any damage caused by this that occurred after the policy started is covered by B's policy. And I'm persuaded by Miss C's testimony and the evidence she has provided that the damage B is actually claiming for occurred in September 2021 after its policy started. This is because I have no reason to doubt Miss C's testimony of the timeline of events and this, along with the invoice for the work B had carried out in July 2021, shows that the minor damage to the kitchen and bathroom ceilings was repaired in May and July 2021. I've also seen the emails from the letting agent of the flat above, which suggest to me that major work was carried out in that flat in June 2021 to address a leak. And this suggests to me that there was a further leak or a re-occurrence of the existing leak, which caused further damage to B's flat in September 2021.

I've noted that HCC has suggested when Miss C made B's claim she stated that the damage had occurred in May 2021. But Miss C denies this; and, as I also said in my provisional decision, HCC hadn't provided any contemporaneous evidence to show this is what she said. And HCC still hasn't provided any contemporaneous evidence to prove this.

In the circumstances, it remains my view that the fair and reasonable outcome to B's complaint is for HCC to settle its claim for repairing the damage to the bathroom and kitchen ceilings in its flat that occurred in September 2021. If B has had the repairs carried out and paid for them, I consider it fair and reasonable for HCC to pay interest on the amount due to B at 8% per annum simple from the date B settled the invoice for the work to the date of actual payment.

I also consider that HCC's failure to recognise that the damage that B was claiming for occurred after the policy had started, despite Miss C's very clear explanation of what had happened, caused B unnecessary inconvenience. And I think HCC should also pay B £300 in compensation in recognition of this.

### **Putting things right**

For the reasons set out above, I've decided to uphold B's complaint and make HCC International Insurance Company Plc settle B's claim in accordance with the claim settlement terms in its policy.

I've also decided that if B has had the repairs to its flat carried out, HCC should pay interest on the amount due to B at 8% per annum simple from the date B settled the invoice for the work to the date of actual payment.

I've also decided HCC should pay B £300 in compensation for inconvenience.

### **My final decision**

I uphold B's complaint and order HCC International Insurance Company Plc to do what I've set out above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 6 March 2024.

Robert Short  
**Ombudsman**