

The complaint

Mr and Mr H complain that Accelerant Insurance Europe SA/NV (“Accelerant”) declined a claim they made on their insurance policy following an escape of water at their property.

Accelerant is the underwriter of this policy, and the underwriter is responsible for complaints about claims. Part of this complaint is about what happened with other businesses (agents) that did work for Accelerant. As Accelerant has accepted it is responsible for anything these other businesses did, any reference to Accelerant includes the actions of the other businesses.

Mr H and Mr H are joint policyholders but, for ease of reading, I’ll refer to Mr H throughout my decision.

What happened

Mr H owns a property that was passed to him by his late father. The property was in the process of being sold. Mr H’s broker was aware the property was unoccupied at the time of renewal.

There was a water leak at the property in December 2022 and so Mr H made a claim under the policy because the property had been damaged.

After Mr H’s property was inspected by a loss adjustor, Accelerant declined his claim.

Mr H raised a complaint but Accelerant maintained its position. It said the terms of the policy hadn’t been complied with and the water should have been turned off. Accelerant said had the water supply been turned off as per the requirement then it is unlikely the pipe would have burst, or water damage would have been limited to the extent of water contained within the pipe. Since the condition wasn’t met and is material to the loss, Accelerant said the level of damage increased as a direct result of non-compliance with the terms of the policy.

Mr H remained unhappy and asked our service to consider his concerns. One of our investigators looked into things for him. He said Accelerant declined the claim fairly initially, based on what it knew at the time. Since that time it received further information and agreed to arrange an in-depth inspection of the property. Our investigator thought this was fair. Mr H didn’t agree. He said Accelerant should pay the claim.

On receipt of new evidence our investigator issued a further view. He said he thought Accelerant acted fairly in relying on its stated exclusion in order to refuse the claim. He said the exclusion was clear and he was satisfied it wasn’t met. And so, Mr H’s complaint wasn’t upheld.

Mr H disagreed with our investigator’s outcome. He said the terms were vague and contradictory, the heating was on and operating in an effective manner, and so the terms of the policy were met. Since Mr H didn’t agree the complaint has been passed to me for a 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.

Having done so, I must tell Mr H that I think the investigator has reached a fair outcome here. So, I don't uphold his complaint in this matter. I'll explain why.

The terms of the policy

The terms of the policy provided cover for damage to Mr H's property. For any insurance claim to be successful, the policyholder must show they have a valid claim, meaning an insured event happened that caused them damage or a loss. Insurable events are listed in the policy and reflect the fact that no policy covers everything that might happen. Only damage caused by one of the one-off perils (or events) listed in the policy will be covered. If the damage can be shown to be caused by such an event, then the insurer must pay the claim unless it is able to rely on one of the policy exclusions to decline it. I can see that Mr H made a claim against his insurance policy after there was a leak of water in the property that caused damage.

When considering Mr H's complaint I've relied on the expert opinions provided by both parties. I understand Mr H strongly believes that he couldn't have turned off the water supply at the mains, and that he complied with the remaining terms of the policy.

The terms of the policy say the following;

"Unoccupied properties

1. *You must tell us immediately you become aware*
 - a) *That the property is unoccupied and select the appropriate level of cover for your needs;*
 - b) *Of any damage to the unoccupied property whether the damage is insured or not.*
2. *The property must be inspected internally and externally at least once every 14 days by you or on your behalf and a written record of the inspection is maintained by you;*
5. *The gas, water and electricity supplies must be turned off at the mains (except electricity needed to maintain any fire or intruder alarm systems);*
6. *During the period 1st October to 31st March all water systems must be drained, or the heating system put into effective operation to maintain the internal temperature at a minimum of 10 degrees centigrade;...*

Initially Mr H's claim was declined because it wasn't satisfied that point 6 above had been complied with; in that it wasn't satisfied the heating system was put into effective operation while the property was unoccupied. Mr H explained the heating was set to go on for a number of hours each day but Accelerant didn't agree this was sufficient for the purposes of the claim.

Accelerant subsequently said Mr H failed to turn off the water at the mains as stipulated by point 5 of the policy. Mr H says the boiler system in the property is such that it is not possible to have the heating running without the hot water, hence the tank needed to be full to prevent damage to the system. Accelerant provided expert evidence to refute this. I have reviewed the report, dated May 2023, and am persuaded that the isolation of the water

supply wouldn't prevent a central heating system operating normally, or place the boiler at risk of damage.

Mr H initially said the terms of the policy were vague and that they allow him to *either* drain the water system or put the heating system into effective operation to maintain the internal temperature. And so that is what he did.

But I think the terms are clear. That when the property is unoccupied the water must be turned off at the mains. And then from 1 October to 31 March the water systems must be drained, or the heating system put into effective operation. Since Mr H didn't turn the water off at the mains I don't think whether he drained the water system or put the heating system on is all that significant.

Accelerant has said, based on the information from its loss adjustor and an independent expert, Mr H's failure to turn off the water supply caused further damage and so the claim was declined.

The source of the leak

Mr H says the pipe that burst was the cold-water feed from the header tank in the loft to the cylinder. The loss adjustor who inspected the property said the damaged pipe was a cold-water supply pipe.

Mr H sent evidence to Accelerant which included comments from his own contractor as well as photographs of the repaired pipe. Accelerant sent that evidence to an independent expert for comments. That expert confirmed, based on the evidence, that, "*the pipe that burst was undoubtedly 15mm in diameter and was therefore not associated with the cold-water feed to the cylinder as now alleged. Therefore, it must have formed part of the cold-water supply to the property.*"

The expert concluded, "*the volume of water that escaped from this split pipe exceeded the capacity of the header tank by a significant amount, i.e. the fact that the stopcock had not been closed meant that considerably more water escaped than would have been the case, if the stopcock had been closed.*"

I've given thought to the evidence but based on the information provided I'm more persuaded by Accelerant's report. Particularly because Mr H's evidence doesn't specify the reasoning or explanations for the conclusions reached.

The crux of the matter is that Accelerant haven't seen anything that shows Mr H took the necessary steps as outlined in the terms of the policy. I know Mr H says the terms of the policy are vague and he did take some steps to comply with the conditions. I don't doubt this is the case. But I'm also persuaded that had the terms of the policy been complied with the extent and level of damage wouldn't have been as extensive as it was, and it's possible the claim would have been settled.

So, having considered the expert opinion provided I'm more persuaded by Accelerant's view and I think it was fair for it to rely on its experts to help inform its decision. And, I don't think it was wrong for Accelerant to decline the claim.

My final decision

For the reasons I've explained I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mr H to

accept or reject my decision before 8 April 2024.

Kiran Clair
Ombudsman