

The complaint

A limited company, which I will refer to as W, complains about the decision of China Taiping Insurance (UK) Co Ltd' in relation to its commercial insurance policy. W is also unhappy with the claim handling, particularly the time taken.

What happened

The following is intended only as a brief summary of events. Additionally, whilst other parties have been involved in the complaint correspondence, for the sake of simplicity, I have largely just referred to W and China Taiping.

W operates as a laundry business and held an industry specific insurance policy underwritten by China Taiping. On 28 June 2023, W had a fire at its premises. It contacted China Taiping to claim under the policy. Within a few days, China Taiping had arranged for both its loss adjuster and an independent forensic investigator to attend the premises. The forensic investigator, which I will refer to as H, provided a preliminary report of the claim and likely cause on 6 July 2023. This report set out H's understanding of the circumstances.

This included that a load of washing from a local café had been washed in a machine and then placed in a tumble drier on "cycle D". Cycle D is apparently described as "180°F 35 minutes with cool-down TOWELS, HEAVY COTTONS". The exact time this drying process started isn't clear, but it was somewhere between 16:00 and 17:00. The drying cycle had then been stopped prior to its completion. The load was then placed on a plastic bag in an area of the shop floor to air and fully dry overnight. It seems that this was the location of the start of the fire.

H said that tumble dryers have an in-built cooling period, but that this was seemingly interrupted. H explained that oil in fabrics becomes heated in the drying process and that if this is unable to dissipate, the heating process can continue ultimately reaching a point where laundry ignites. And that not spreading laundry out enough would prevent the heat from dissipating. H concluded:

"In my opinion the fire started due to the self-heating of a laundry load, most likely the load containing aprons and tea towels from a local café."

H was then asked to try to retrieve the CCTV footage from inside the premises. The CCTV recorder had been damaged by smoke during the fire. H tried to recover the footage but confirmed on 31 August 2023 that it was unable to, given the condition of the recorder. H did indicate to China Taiping that it might be possible for a specialist to repair the recorder and recover the footage. It does not seem that this was done.

W had been chasing China Taiping for an outcome on the claim during this period. China Taiping provided this on 7 September 2023, declining the claim. In doing so, China Taiping relied on a number of conditions set out in the policy wording and schedule. One of these is as follows:

"Processed Loads

It is a condition precedent to the liability of the company that all items which have

undergone any process at the premises are allowed to individually cool fully before piling stacking or packaging.”

China Taiping said that the testimony and evidence indicated that the laundry load had not gone through the full drying cycle and then had not been spread out to allow cooling. It said that this meant the above condition had not been complied with and that this was material to the cause of the fire.

W complained, saying that after “cycle D”, the load had been put through a further short tumble of around 10 minutes. And that this was only a small load of laundry, consisting of around 30 tea-towels and five aprons. W estimated that the full load was less than 30 cm in height and would not have been stacked as high as this. However, China Taiping did not change its stance.

W brought its complaint to the Ombudsman Service. But our Investigator did not recommend it should be upheld. He thought China Taiping had acted appropriately and in line with the policy terms by declining the claim.

As W remained unsatisfied, its 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 am not upholding this complaint. I'll explain why.

As I have noted, the above is merely a brief summary of the events and arguments raised. China Taiping also referred to a number of other reasons why the claim might be declined, and W has submitted detailed arguments against these. Although I have thought about each of these, I have not set them out within this decision as I consider the condition above was most likely not complied with and I also consider this to be a valid reason for China Taiping to decline the claim.

There is some dispute over the events the day before the fire – which occurred over the following night. This includes the timings of various events and exactly what went on. I have noted that the descriptions of the events that were given at different times do have some differences. A person giving an account soon after something has happened is often likely to be more accurate, as their memory is fresh. However, they might also be in a heightened emotional state at the time, and this might lead to discrepancies.

I don't consider it is necessary to weigh this up too much in this case. There are differences in some parts of the accounts. However, it seems to be accepted that the load in question was placed on the floor in some sort of pile/stack. This may not have been as much as 30 cm high, but given the space available and the apparent size of the load, it is clear there must have been some stacking.

I have considered whether further efforts ought to have been made to recover the CCTV footage. But it isn't clear these would be successful, and W was pushing for a decision on the claim. Ultimately, it does not appear to be disputed that there was some stacking of items, and so it does not seem the CCTV footage would show otherwise.

The condition above requires that items are individually cooled before stacking. There is some discrepancy over whether “cycle D” was completed and/or a second tumble took place. However, H's conclusions are that the items that were stacked were not cooled

sufficiently. H considered other possible causes of the fire, but concluded that it was the spontaneous combustion of these items that remained heated at the time they were stacked that led to this.

In the absence of any other plausible cause of fire, I consider it most likely that the laundry items had not been allowed to individually cool. And it is accepted that these were stacked to an extent. I consider this is a clear breach of the above condition.

As this is a condition precedent to liability, breach of this condition means that China Taiping is not liable for meeting W's losses. It follows that I consider that, in all the circumstances of this complaint, China Taiping acted appropriately when declining W's claim. And I am not able to fairly and reasonably ask China Taiping to do more.

I have thought about the claim process. I note that it did take more than two months for China Taiping to decline the claim. However, China Taiping was at that time waiting for further comments from H. I can see that China Taiping did chase for a response from H during this period. Given the nature of the claim, I consider it was appropriate for China Taiping to wait for H to respond before declining the claim. It is reasonable that it wanted to be sure its decision was correct. H was at that time trying to recover the CCTV footage which would have shown the events of the day before and would have overcome much of the discrepancies that later emerged in the accounts.

So, whilst I appreciate W and its directors would have wanted a decision on the claim before this point, I am unable to say that China Taiping acted unreasonably here.

I appreciate this is not the outcome W or its directors was hoping for. But I am unable to fairly and reasonably uphold this complaint in the circumstances.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 26 July 2024.

Sam Thomas
Ombudsman