

## The complaint

Mrs A complains U K Insurance Limited (trading as Churchill) unfairly declined her landlord insurance claim.

UKI's been represented for the claim at points. For simplicity I've generally referred to the representative's actions as being UKI's own.

## What happened

In February 2022 Mrs A made a claim against her UKI landlord buildings insurance policy. She reported storm damage to the inside (carpets, skirting and walls) and outside (patio doors and rendering) of her rental property. After some back and forth, in September 2022 UKI declined the claim. It didn't accept the damage was the result of storm. It was of the opinion the cause was a building defect related to a previous conversion of the property. In February 2023 Mrs A, to challenge UKI's decision, provided a structural engineer's report. I refer to the engineering firm as 'E'. UKI reviewed E's report but continued to decline the claim for the same reasons.

Mrs A complained about UKI's handling of the claim. She was unhappy with the decline, speed of progress and the claim being prematurely closed. In August 2023 UKI issued a complaint final response. It found the decision to decline the claim to be correct. It repeated its position that the cause was a weakness or defect in the building. It concluded that meant it isn't covered as either storm or accidental damage (AD). UKI said it had closed her claim as she hadn't responded to an information request. Although it wasn't sure if Mrs A had been sent reminders. UKI accepted responsibility for unnecessary delay early in the claim. It offered Mrs A £150 compensation as an apology.

Mrs B wasn't satisfied with that outcome. She referred her complaint to the Financial Ombudsman Service. She said her claim had been unfairly declined, resulting in her paying £16,000 for repairs and losing 12 months rental income. She added UKI had delayed progress of the claim. She explained the process had caused her significant distress and affected her health.

Our Investigator wasn't persuaded storm was the main cause of damage. She felt instead the storm had highlighted an existing defect. So she found UKI had fairly declined the claims for damage and loss of rent. She felt it had been reasonable for UKI to have closed the claim, as Mrs B hadn't responded to its enquiries. She felt UKI had caused an avoidable delay of around seven weeks. She considered the compensation it had already offered was enough to recognise the impact on Mrs A.

Mrs A has raised concerns at UKI withdrawing her cover for a second property in the same building. I haven't considered that in this decision. Mrs A hadn't complained about that action originally. If she would like that matter considered she should first provide UKI with an opportunity to respond to her concerns.

I issued a provisional decision. Its reasoning forms part of this final decision, so is copied in below. In it I explain why I intended to require UKI to reimburse Mrs A the cost of the repairs

and E's report, as well as pay her a total of £500 compensation. I also invited Mrs A and UKI to provide any further evidence or comments they would like me to consider before issuing this final decision.

***what I've provisionally 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 this is an informal service I'm not going to respond here to every point or piece of evidence Mrs A and UKI have provided. Instead, I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.*

*Mrs A's policy covers her building against storm and tempest. The policy doesn't define storm or tempest. However, I'm satisfied there were storm conditions in the local area on or around the date the damage is said to have happened. A weather report records peak gusts, on the 18 February 2022, of 71mph. That speed was recorded by a weather station 24 miles away.*

*I've considered if the storm was the main or dominant cause of the damage - or alternatively whether the damage was already there or if storm simply highlighted an existing problem.*

*Mrs A considers storm to be the main cause of damage to an otherwise sound building. On the other hand, UKI doesn't accept storm as the main cause. Instead, it considers the cause to be an existing defect. I've considered the available expert evidence to decide which is the most likely.*

*Mrs A's key evidence is E's report. E inspected the property with the purpose of identifying the cause of a crack at the rear of the property and to advise on repair. It said conversion works, in 1993, were carried out under the supervision of competent engineers and approved by building control. It found the recent cracks to be typical of excessive lateral load failure. It noted the area with the damage faces in a direction absorbing the major wind forces, but had resisted lateral loads without issue until the recent damage. For E, this suggested lateral wind pressures from the February 2022 storm, the worst in 30 years, was the cause of the claimed for damage.*

*UKI's main evidence is its record, including photos, of its loss adjuster's September 2022 inspection of the property and surveyor's opinion. Based on these and the evidence provided by Mrs A, UKI doesn't consider the damage consistent with that caused by storm. It accepts lateral wind forces to be a significant load factor in buildings, but considers that apart from extremely severe instances, like hurricanes and major tornadoes, it would expect a building structure and adequate render coating to perform their jobs.*

*Instead, according to the UKI, the damage results from defect(s) resulting from the conversion. It's referred to a poor design or fitting of the damaged patio door, although it hasn't explained or illustrated the exact issue. UKI's said if storm was the cause, it would expect other windows to be damaged as well. It considers cracking to be at the join between new render, required for the conversion, and existing render. It also said cracking is the result of differential movement between different materials. UKI's also referred to a 2016 photo of the property, showing the join in the render, where water entered the property following the February 2022 storm. It appears to*

*consider that, along with a mastic repair to cracking, indicates rainwater had been entering the property from as far back as 2017.*

*This has been a difficult complaint to decide, in part because the damage to an elevation doesn't match the more commonly claimed for, in my experience, 'storm' damage to roofs. For me its finely balanced, but ultimately, I have to decide one way or the other. I currently intend to find that storm was likely the main or dominant cause of the damage.*

*Key factors for my decision include the following. The relatively high speed of the recorded winds. The opinion of E, a structural engineer, against a surveyor. The 1993 conversion works having been undertaken with the involvement of an engineer, receiving building control certification and not having presented a known problem until the major storm of 2022. I make that final point having been persuaded by Mrs A's argument that UKI misunderstood E's reference to the mastic repair. The repair, she claims, was made to prevent further water ingress following the 2022 storm, rather than before it, as claimed by UKI.*

*In addition, UKI hasn't effectively explained or illustrated exactly what was defective from the conversion works, instead its speculated that a defect exists, or differential movement is the cause. As an example, it said the patio doors were of poor design or fitting - but hasn't provided any further detail.*

*So I currently intend to find UKI unfairly declined Mrs A's buildings claim. I will require it to take various actions to put things right for her. First it will need to reimburse the cost of the repairs, on receipt of evidence they have been paid for. As UKI's decline caused her to be unfairly without the use of the relevant funds, it should add simple interest to its payment. That should be applied at 8%, from the date she paid the invoice to the date of final settlement.*

*As I've said above E's report had an impact on the outcome of the claim. I consider it should have accepted liability for the loss after Mrs A shared it. So it will be reasonable for UKI to reimburse Mrs A the cost - plus simple interest, from the date she paid for it until settlement.*

*I next consider Mrs A's request for UKI to cover a loss of rental income. The policy provides cover for loss of rent. It pays when liability is admitted under the buildings cover for damage, that causes a business interruption resulting in loss of rent. UKI should have admitted liability for the damage, but I'm not currently persuaded the damage caused a 'business interruption' that resulted in a loss of rent. The interruption, would I presume, be the property being uninhabitable because of the damage - or for any required repairs.*

*I'm aware that the tenants were moved out by Mrs A in September 2022. She didn't receive rent for 12 months. She said she made that decision as it was clear there would be a long wait for UKI to deal with the claim and work would be required. So it seems tenants had remained for six months or so following the storm. That doesn't persuade me the property was likely uninhabitable as a result of the damage.*

*Considering the scope of works for the repairs, I'm satisfied there would likely have been some inconvenience for any resident during repairs. But probably not enough to consider the property uninhabitable for any significant period. In any event it's of little importance, as Mrs A had already moved the tenants out before repairs began.*

*So I'm not currently persuaded UKI should cover loss of rent under the policy terms. Neither do I consider it should do so outside of the policy, for example because of poor claims handling or some other omission. I haven't, so far, been persuaded it's responsible for Mrs A missing out on rental income. I say that having been provided with limited information on this aspect of the complaint. I'll consider anything more that's provided in response to this provisional decision.*

*Finally, I've considered if UKI should pay more than the £150 compensation already offered. I've considered, but haven't detailed here, Mrs A's comments on the general customer service provided by UKI. I'm satisfied the unfair decline of the claim caused her a quite a bit of unnecessary distress and inconvenience over many months. As an example, she's had to deal with the claim and disruption for significantly longer than she should have. Overall, £500 in total, would be an appropriate amount for UKI to pay in recognition.*

### **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 this is an informal service I'm not going to respond here to every point or piece of evidence Mrs A and UKI have provided. Instead, I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.

UKI didn't respond to my provisional decision. Mrs A accepted the proposed outcome on the repairs and E's report cost, but asked for UKI to be required to cover loss of rental income. I have no new information, regarding those first two issues, to consider. I will therefore require UKI to reimburse the cost of repairs and E's report.

I'd said, in my provisional decision, I wasn't currently persuaded the damage caused a 'business interruption' that resulted in a loss of rent. That interruption being the property being uninhabitable because of the damage - or during any required repairs. I said the tenants were moved out by Mrs A in September 2022. She had said she made that decision as it was clear there would be a long wait for UKI to deal with the claim and work would be required. I noted that the tenants remaining for six months or so, following the storm, didn't support the property was likely uninhabitable as a result of the damage.

I added, considering the scope of works for the repairs, I was satisfied there would likely have been some inconvenience for any resident during repairs, but probably not enough to consider the property uninhabitable for any significant period. I said in any event it's of little importance, as Mrs A had already moved the tenants out before repairs began.

In response Mrs A explained she had begun eviction proceedings in February 2022, with the tenants moving out six months later. It seems from her account that she began those proceedings primarily as she had been experiencing difficulties with the tenants from before the date of loss. Seemingly they had been making routine inspections difficult and had refused access to inspect the storm damage. She said in this context my assertion that work could be carried out with minimal disruption, whilst the tenants were in place, would have proved impossible.

Mrs A has referred to being advised she could face difficulties for providing a property not fit for habitation. She's also mentioned rain leaking into living areas. However, the primary

reason for the tenants departing appears to have been their conduct as tenants which resulted in Mrs A seeking their eviction, rather than due to condition of the property.

Perhaps it would have been difficult to undertake repairs with those tenants in occupation, but that doesn't make the property itself uninhabitable. Taking that into account, alongside the scope of works for the repairs, I'm still not persuaded the property was uninhabitable for any significant period. I'm not going to require UKI to cover any loss of rental income.

### **My final decision**

For the reasons given above, I require UK Insurance Limited to:

- on receipt of evidence of payment reimburse Mrs A the cost of the repairs - adding simple interest at 8% from the date she paid for the work to the date of final settlement,
- on receipt of evidence of payment reimburse Mrs A the cost of E's report - adding simple interest at 8%, from the date she paid for it until settlement,
- pay £500 compensation - deducting any amount its already paid Mrs A.

\*If UKI considers it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs A how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 1 April 2025.

Daniel Martin  
**Ombudsman**