

The complaint

Mr C and Ms D complain that Tesco Underwriting Limited (“Tesco”) unfairly declined their claim for damage caused by a storm, under their home buildings insurance policy.

I’ll refer to Mr C in my decision for ease.

What happened

Mr C returned from holiday on 1 February 2024. He found that water was running down his bedroom wall. He employed a builder to identify the source of the problem, which he initially thought was a defective water pipe. His builder found this wasn’t the case. Once the weather had abated the builder erected scaffolding and identified a damaged chimney stack. He says this was the cause of the rainwater ingress.

Mr C says he’s aware that there were two named storms that affected the area whilst he was on holiday. He says this is what damaged the chimney stack. Mr C explains his roof had been renewed 18 months earlier. The render on this chimney stack was considered to be in good condition. And the pots had been re-bedded in mortar. As a result of the storms Mr C says the chimney stack was unstable and dangerous. He says there was no possibility of a temporary repair. This meant his builder had to take down the chimney stack to prevent further damage.

Mr C called Tesco to make a claim on 16 February 2024. He says it told him not to do anything until a surveyor had inspected. Mr C says on discussion with his builder this wasn’t an option. The stack was dangerous and had to be removed. And the only way to prevent further rainwater ingress was to rebuild it. Mr C says he wasn’t told to take photos of the damaged stack until he queried this with the surveyor who was due to attend. Once he was advised to take photos on 20 February, he says he arranged for this to be done.

Tesco’s surveyor inspected the damage on 5 March 2024. He reported back to Tesco that the chimney stack had been removed and was being rebuilt. This meant he couldn’t validate the cause of the damage. Mr C says Tesco later confirmed his claim had been declined on the basis of deteriorated mortar due to a gradual cause, and because the repairs had already been undertaken. Mr C didn’t think this was fair and complained.

In its final complaint response Tesco says its surveyor didn’t think the damage had resulted from a one-off storm event. Because Mr C had arranged for repairs to be carried out this prevented its surveyor from validating the cause further. Tesco maintained its decision to decline the claim.

Mr C thought Tesco had treated him unfairly and referred the matter to our service. Our investigator didn’t uphold his complaint. She says Mr C was told not to go ahead with repairs until the damage was inspected. As he gave instructions to dismantle the chimney stack against his policy terms and the information he was given over the phone, she says Mr C should’ve arranged for photos to be taken of the damage. As he didn’t, Tesco was unable to validate the cause of the damage. Our investigator didn’t think it unfair to decline in these circumstances.

Mr C disagreed with our investigator's findings and asked for an ombudsman to consider the matter.

It has been passed to me to decide.

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'm not upholding Mr C's complaint. I'm sorry to disappoint him but I'll explain why I think my decision is fair.

My focus here is Mr C's declined claim for storm damage. He has another complaint relating to the cancellation of his policy. I'm not considering that here.

There are three questions we consider when determining if a storm caused the damage claimed about. These are:

- Do we agree that storm conditions occurred on or around the date the damage is said to have happened?
- Is the damage claimed for consistent with damage a storm typically causes?
- Were the storm conditions the main cause of damage?

If the answer to any of the above questions is no the insurer can generally, reasonably decline the claim.

Tesco hasn't disputed that storm conditions were experienced around the time of Mr C's loss. I've looked at the weather records it provided from 21 January 2024. This shows gusts up to 60mph were recorded at a weather station close to Mr C's home.

Tesco's policy terms provide a definition for storm force winds as anything exceeding 55mph. Based on this information I'm satisfied the answer to question one is yes. Storm conditions occurred around the time the damage occurred.

Damage to chimney stacks resulting in rainwater ingress is something that can typically be caused by a storm. So, I'm satisfied the answer to question two is also yes.

Finally, I need to be satisfied that the storm was the underlying cause of the damage. To understand more I've read the comments from Tesco's surveyor. His report says deteriorated mortar works to the chimney was the cause of the damage. After Mr C's claim was declined and he complained, Tesco asked its surveyor for further comments. He responded to say that "*essentially the chimney cannot be damaged during one storm event*". He refers to the chimney stack as made from stone and very large. He says it had fractured at the bottom where it meets the roof. The surveyor advised that if render was in place, and not cracked, the damage caused to the chimney stack couldn't have occurred.

In his response to Tesco the surveyor says he explained this to Mr C at his inspection. And that he asked him for photos of the damage. The surveyor says he was asked to refer back to Tesco to assess the claim as he wasn't able to validate the damage and there were no photos to consider. This is what he did. The surveyor says the underlying reason for declining the claim is that there are no photos to confirm what was damaged. He says based on his experience water had ingressed through damaged render resulting in the damage to the chimney stack.

I note Mr C disputes that the surveyor told him his claim was declined. But I have no reliable way to validate exactly what was said, other than to consider each party's account of what happened. However, this point doesn't impact on my decision about whether the claim was declined fairly or not.

I've looked at the photos Mr C has provided. These show the chimney stack once it had been restored. The photos don't show its condition prior to this work being carried out.

The claim records Tesco supplied include a note from 16 February 2024 when Mr C first made contact. The note says:

"When discussing what [Mr C's] trades had done so far. [Mr C] advised in order to mitigate further losses the builder has had to take down the chimney stack and will need to continue and finish as he has a hole in his roof".

I've also listened to the call when Mr C first reported his loss. He explains that it took some time for his builder to arrange scaffolding to be able to get onto the roof. When he did he found the chimney stack was cracked and needed dismantling and rebuilding. Mr C told the call handler that the builder had already been working on the roof and the chimney stack had been dismantled.

Based on this information the chimney stack was removed before Mr C reported his claim to Tesco. So, it had no opportunity to validate the cause of the damage.

I've read Mr C's policy terms and conditions. The following excerpts are of relevance:

"If you or your family do not comply with the following claims conditions we may, at our option, cancel the policy and/or refuse to deal with your claim.

- 1. Take action to protect the property from further loss or damage.*
- 4. Do not incur any cost or proceed with repair or replacement without our engagement.'*
- 6. You must cooperate with us fully in providing information and assistance to investigate and validate your claim. We will require proof of ownership and/or proof of loss (e.g. receipts, valuations, photographs, instruction booklets and guarantee cards). We will only ask you to provide information and assistance that is relevant to your claim.'*
- 7. Except with our written consent, you must not: dispose of or destroy any items that are damaged until we agree."*

Point four is clear that Mr C shouldn't proceed with repairs without agreement. Point six is clear that Mr C must aid Tesco in validating his claim. Point seven states no damaged items are to be destroyed without written consent. I note Mr C's comments that points 1 and 4 contradict each other. But I don't think this is necessarily the case. Mr C can take action to protect his property if this conflicts with the remaining terms by obtaining agreement from Tesco. I can see from the email exchange he had with its surveyor that he was advised to provide photos before carrying out full repairs. But as discussed, Mr C had already arranged for the chimney stack to be dismantled before the surveyor inspected or any contact was made with Tesco.

Having considered all of this I think it's clear that Mr C's actions prevented Tesco from being able to validate his claim. I accept this wasn't his intention. But he instructed or authorised his builder to remove the chimney stack. This meant Tesco's surveyor couldn't inspect it. This was done before he contacted Tesco. By doing this he prevented it from establishing whether an insured cause had resulted in the damage.

Tesco's surveyor didn't think a one-off storm event could result in the damage claimed. He

thought it more probable that the damage occurred over time. I think the surveyor's view is persuasive based on the explanation he gave. The indication is that a gradual cause resulted in the damage. This is excluded from cover under Mr C's policy terms.

If the damage was caused solely by the storm Mr C's actions have prevented an inspection from proving this. I note what he says about not regularly taking photos. But I think it's reasonable to expect that he would arrange for photos to be taken of the damaged chimney stack prior to demolishing it. I've no doubt the strong winds resulted in rainwater ingress. But I don't think the storm was the underlying cause. If it was Mr C has essentially prevented this from being established by demolishing his chimney before contacting Tesco and by failing to take any photos to show its condition.

In summary, although I'm sorry Mr C has had to pay for repairs, I don't think Tesco treated him unfairly when it relied on its policy terms and conditions to decline his claim for the reasons it gave. So, I can't reasonably ask it to do anymore.

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 Mr C and Ms D to accept or reject my decision before 12 January 2025.

Mike Waldron
Ombudsman