

complaint

Mr B has complained because MCE Insurance Company Limited declined his claim under his motorcycle insurance policy after his motorcycle was stolen.

background

In July 2017, Mr B took out an insurance policy for his motorcycle. Unfortunately, five months later, his motorcycle was stolen while it was parked outside a pub. So, Mr B contacted MCE on the same day as the theft, to make a claim

MCE looked into Mr B's claim and asked him about the motorcycle licence he holds. MCE saw that Mr B's licence means his motorcycle needed to have had the engine restricted. When MCE asked Mr B about the engine, he said it wasn't restricted. MCE refused to pay his claim because they said he hadn't been riding the motorcycle in accordance with his licence. Mr B wasn't happy with this and asked us to consider his complaint.

Our investigator looked into Mr B's case and said the restriction of the engine had no link to the motorcycle being stolen. She explained that she thought it was unfair of MCE to decline Mr B's claim on that basis. And she suggested and they consider the claim for theft in line with the other terms of his policy.

MCE disagreed and said Mr B had illegally ridden his motorcycle to the pub and by doing so, increased the risk of it being stolen. MCE pointed to a similar case we've dealt with which they say supports their argument. The investigator wasn't persuaded by MCE's response, so Mr B's case has been passed to me for a decision.

my findings

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 agree with our investigator.

I agree with MCE that Mr B wasn't legally entitled to ride his motorcycle with the licence he had. But I don't think this means his claim's not covered.

Mr B's policy provides cover for the theft of his motorcycle. But MCE has relied on the 'General Exceptions' within the terms and conditions to decline Mr B's claim. On page 11 of Mr B's insurance policy booklet, it says:

Your policy does not cover the following:

1. *Any accident, injury, loss or damage while the motorcycle insured under this policy is being:*
 - *Ridden by you unless you hold a valid licence and CBT certificate (if applicable), for the vehicle insured and not disqualified or obtaining such a licence.*

I think this means Mr B's not covered for any accident, injury, loss or damage while he's riding the motorcycle without a valid licence. But he wasn't actually riding the motorcycle when it was stolen, so I don't think the exception applies to defeat his claim.

MCE says Mr B rode his motorcycle illegally to the pub and this increased the risk of it being stolen. I agree that Mr B rode the motorcycle to the pub against the terms of his licence. But the loss didn't happen while was riding his motorcycle and I think the way the policy is worded means any theft claim in such circumstances is covered, subject to any other relevant terms and conditions in the policy.

I have looked at the similar case MCE has spoken to us about. Although, I can see similarities with Mr B's complaint, I must consider each case based on its own individual merits. And I'm satisfied it wouldn't produce a fair and reasonable outcome if I allowed MCE to use the abovementioned exclusion to defeat Mr B's claim.

This means I think a fair and reasonable outcome to Mr B's complaint is for MCE deal with Mr B's claim in accordance with any claim settlement terms in his policy, including deducting any excess applicable. I also think they should add interest to the settlement amount due, as Mr B has been deprived of funds he should have had. MCE should pay this from the date of Mr B's loss, as this our normal approach when insurers fail to pay an insurance claim.

my final decision

My final decision is to uphold this complaint.

I require MCE Insurance Company Limited to:

- settle Mr B's claim in accordance with the claims settlement terms in his policy; and
- add interest at the rate of 8% simple per year to the settlement amount from the date Mr B's motorcycle was stolen to the date they make the payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 August 2018.

Sam Wedderburn
ombudsman

1

¹ If MCE considers that it's required by HM Revenue & Customs to take off income tax from the interest part of my proposed award, they should tell Mr B how much it's taken off. They should also give Mr B a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.