

## complaint

Mr A complained about Ageas Insurance Limited's handling of his motorcycle insurance policy.

## background

Mr A took out insurance with Ageas in February, 2017. The policy covered theft but had a "garaging warranty" which excluded cover in the event the motorcycle was stolen between the hours of 10pm and 7am where the motorcycle was at Mr A's home address and not locked in the garage. In other words, where the motorcycle was at Mr A's home address overnight he had to lock it in the garage between 10pm and 7am. This requirement was explained to Mr A over the phone when he took out the policy and it was also in the policy schedule which he was told to read.

Unfortunately, Mr A's motorcycle was stolen from his drive sometime between the evening of the 12<sup>th</sup> and the morning of the 13<sup>th</sup> of April, 2017. Mr A reported the theft to Ageas on 13 April.

During a subsequent phone conversation with Ageas on 3 May, Mr A said the motorcycle had been "stolen at 11.30pm in the night."

On 9 May Ageas told Mr A they wouldn't cover the theft as he had breached the policy terms by not keeping the motorcycle in the garage overnight.

Mr A responded on 15 May saying Ageas were wrong to assume the theft happened between 10pm and 7am. He said it was possible his motorcycle had been stolen between 6pm and 10pm during which the garaging warranty was not applicable, therefore he argued Ageas should indemnify him for the theft. Mr A asked Ageas to consider his response.

On 24 May Mr A, referencing his 15 May response, emailed Ageas asking for a reply. On 26 May he again asked for a reply and made a formal complaint to our service. Then on 30 May Mr A wrote to Ageas again saying he had complained to our service.

That same day on 30 May Ageas sent Mr A a final response letter (FRL). Ageas said they were writing further "to our correspondence of 09 May and the subsequent emails we've received from you expressing your dissatisfaction on repudiating your theft claim." Ageas went on to explain the garaging warranty and said Mr A had breached the policy. Ageas also referenced the phone conversation Mr A had with Ageas on 3 May and said: "You stated in this conversation that you are aware of the endorsement you have and that you weren't given the option to park the bike in the garage as it was only 11.30pm. Based on this conversation, I am satisfied that there has been a clear breach of the endorsement."

On 6 June Mr A wrote to Ageas saying this was now his "5<sup>th</sup> email request seeking a response." A day later on 7 June Mr A wrote to Ageas in direct response to the FRL. He said Ageas' interpretation of the 3 May phone conversation was "wholly incorrect" and "grossly misinterpreted." Mr A went onto repeat the points made in his 15 May email.

As Mr A had made a formal complaint to our service, one of our adjudicators investigated the complaint. During a conversation she had with Mr A he told her on 5 July that he believed the bike had been stolen at 9.30pm.

Having considered all the evidence the adjudicator rejected Mr A's complaint. She said:

- The relevant policy terms had been brought to Mr A's attention when he took out the policy in February 2017.
- Having listened to the call between Mr A and Ageas on 3 May Mr A said on more than one occasion that the bike was stolen at 11.30pm. Mr A also said "*...it's garaged overnight but I wasn't given an opportunity to park the bike in the garage because it was only 11.30pm...*"
- After Ageas refused the claim Mr A amended his account to say the theft happened at 9.30pm.
- She doesn't disbelieve what Mr A said, and she agreed there was no clear evidence confirming the exact time the bike was stolen. But having considered all the evidence she didn't think Ageas' decision was unreasonable.

Mr A responded to the adjudicator saying he accepted the phone recordings supported her conclusions. But he said he had made an error during the 3 May call when he said the theft happened at 11.30pm. He said he only said that because he had heard a noise outside at that time. He also said his partner could corroborate his belief that the theft happened at 9.30pm because when she returned home at that time she couldn't see the motorcycle on the drive, but she just assumed he had parked it in the garage. He also said Ageas made their decision without having all the facts as since 3 May they refused to take his calls.

Our adjudicator considered Mr A's further comments but didn't change her view. She said Mr A had ample opportunity to park in the garage but didn't do so. She also said that she didn't think Ageas refused to take his calls or that they reached a decision without all the facts.

Mr A responded by saying he accepted he failed to park in the garage, but said this was not the issue. He said the relevant issue was the timing of the theft. He also said that his repeated emails to Ageas that went without reply was evidence that they failed to take into consideration all the facts and that they failed to listen to him when he tried to introduce new facts. Mr A said he wanted all the information given to the adjudicator to be given to Ageas for them to reconsider the claim.

The adjudicator confirmed that all the information Mr A provided her had been passed to Ageas.

As Mr A didn't agree with the adjudicator the matter has been passed to me for 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. I appreciate this will be disappointing for Mr A but I agree with the adjudicator that the complaint should be rejected. I'll explain why.

My role is to decide if Ageas have handled the claim in a fair and reasonable way in accordance with the terms of the policy. It's not to decide what time Mr A's motorcycle was stolen.

I am satisfied that the garaging warranty was brought to Mr A's attention when he took out the policy. It says the motorcycle should be parked in the garage between 10pm and 7am when it is at Mr A's home address. Mr A accepts that he didn't do this at all on 12 April.

On the information Ageas were given by Mr A, I think their decision to reject the claim was fair and reasonable. I know Mr A subsequently said the motorcycle could have been stolen before 10pm but during the 3 May phone conversation with Ageas he clearly said twice the theft happened at 11.30pm. When he was reminded he had to park it in the garage overnight he said words to the effect that as it had been stolen at 11.30pm it wasn't possible to park it in the garage after that time. Having listened to that call in full the impression I got was that Mr A understood he had to park in the garage overnight, but perhaps he wasn't clear that it had to be done no later than 10pm. So having been told by Mr A that the motorcycle wasn't parked in the garage at 10pm and was stolen at 11.30pm I don't think Ageas did anything wrong by rejecting the claim.

Mr A feels that he made attempts to clarify the position with Ageas by sending them repeated emails starting on 15 May, but Ageas didn't give him the opportunity to explain and that they based their decision without having the full facts. I don't think that was the case. Ageas in their FRL did acknowledge Mr A's emails, but it would appear those emails didn't change their mind. In his detailed email of 15 May (and subsequent emails) Mr A didn't explain, as he did to our adjudicator, the reason he said the theft happened at 11.30pm, why he felt the theft happened at 9.30pm, nor did he explain that his partner could corroborate his account. I am not aware of any reason that would have prevented Mr A from explaining that to Ageas by email.

When Mr A gave his subsequent explanation to our adjudicator she passed that onto Ageas, so I am satisfied they knew of it. They could have changed their decision if they wished to but they didn't. I therefore feel Ageas were aware of the full facts, including the subsequent account, as presented by Mr A, but they didn't feel the need to change their decision.

As far as I am aware the only evidence of the time of the theft Ageas had was from Mr A. His account on 3 May that the theft happened at 11.30pm. And his later account that the theft could have happened before 10pm. I have not seen any other evidence that gives the time of the theft but I must look at Ageas actions. Given what was said during the 3 May call I don't think Ageas have done anything wrong by rejecting the claim.

**my final decision**

For the reasons set out above I don't uphold this complaint against Ageas Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 22 January 2018.

Mehmet Osman  
**ombudsman**