

complaint

Mr J has complained about Rentokil Insurance Limited's decision to remove cover for wood-rotting fungi from his insurance policy and to decline his claim.

The circumstances of this complaint are set out in my provisional decision issued in January 2014 as outlined below:

background

Mr J held an insurance policy, underwritten by Rentokil, providing the following cover for a number of properties:

- a) wood-boring insects*
- b) wood-rotting fungi*
- c) rising damp*
- d) corrosion of wall ties*

In March 2012, prior to renewal of the policy, Mr J contacted Rentokil and expressed concern about the condition of one of the insured properties. Rentokil agreed, as a gesture of goodwill, to carry out an inspection of the property in question and identified a number of defects. Rentokil's report notes:

"It is clear from the number of defects listed above that the maintenance of the property is not being attended to in accordance with the requirements of thepolicy. With so many likely places for water to ingress the property and lead to outbreaks of wood-rot as a result of the lack of maintenance, there is little likelihood of a claim being accepted....."

Rentokil then cancelled the wood-rotting fungi element of Mr J's policy, refunding a proportion of the premium to him.

Dissatisfied, Mr J complained to Rentokil before bringing the matter to the attention of this service for consideration.

Our adjudicator issued a number of assessments about Mr J's complaint who then provided a report from a private specialist relating to a property inspection carried out in March 2012, prior to the Rentokil inspection. The report identified wet rot on the ground floor, first floor and second floor of the property. The private specialist provided a quotation of £13,119.60 for works relation to wet rot and woodworm infestation.

Our adjudicator eventually wrote to Rentokil recommending that it should reconsider Mr J's claim in line with the policy terms and conditions, as if the policy had not been cancelled, deducting the outstanding premium from any settlement paid. Rentokil did not accept our adjudicator's findings but made an offer to refund Mr J a total of £1618.47, being the premiums paid for the wood-rotting fungi element of cover from 2008 until 2012 and offered £50 compensation for any inconvenience caused.

Mr J did not accept Rentokil's offer and says he had a valid claim under his policy in March 2012. As our adjudicator was unable to resolve the complaint to the satisfaction of both parties, the matter has now been passed to me for final determination.

my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. The issue for me to consider is whether Rentokil has acted reasonably in declining Mr J's claim and cancelling his policy.

Mr J says he made contact with Rentokil in March 2012 because he was about to undertake some work at his property and considered it would be sensible for an inspection to take place when the property was 'stripped back' and the woodwork was visible. Mr J also said an inspection had not been carried out by Rentokil for over five years.

Mr J argues that he had a valid claim under the policy at this point (as evidenced by the report from the private inspection which had taken place earlier that month). Given that Mr J had been provided with an inspection report suggesting that the property was subject to wood-rotting fungi at that stage I am surprised that he did not make a claim against his policy. Instead he asked for an inspection of his property. Whilst I agree that an insured event had already occurred when he first contacted Rentokil to arrange an inspection, Mr J did not contact Rentokil to register a claim; nor did he mention that he had any specific problem in his property.

In any event, Mr J's policy does not provide cover for every eventuality and the level of risk which Rentokil has agreed to accept in return for the payment of a policy premium is not unlimited. The policy states:

"1 If you do not follow the conditions below, your claim may not be valid.

3 You must keep the property in good condition"

The terms and conditions go on to set out a non-exhaustive list of examples of the policyholder's on-going obligations to maintain their property.

The report from Rentokil notes a lack of maintenance at the property and concludes that this has led to the outbreaks of wood rot. Indeed, the private report provided by Mr J appears to support this and refers to water ingress through faulty roof coverings and guttering as well as water ingress through doors. It is clear from both Rentokil's report and Mr J's own damp specialist report that the property was not maintained to the standard required by the policy terms and conditions and a number of the issues identified were clearly visible to the naked eye.

For these reasons, I am not persuaded that Mr J can be said to have had a valid claim under his policy as of March 2012.

However, Rentokil has offered to refund Mr J's premiums for a period of five years (totalling £1618.47) in acknowledgement that Mr J would have been unable to have advanced a claim against his policy during that period as the maintenance would have been sub-standard. I note that Mr J suggested that this would be an appropriate course of action when he first advanced his complaint to Rentokil and it appears a fair and reasonable settlement in the circumstances.

Following the Rentokil inspection, Mr J's cover for wood-rotting fungi was removed from his policy.

The policy which Mr J holds with Rentokil is an annually renewable contract. This means that neither party is obliged to continue with the policy after the renewal date. If both parties do agree to renew, then Rentokil is entitled to decide upon the premium it will charge and is free to impose any restrictions on the policy which, in its commercial judgment, it deems are necessary.

Furthermore, the terms and conditions of Mr J's policy state that Rentokil;

"...may cancel the policy at any time, by giving you seven days written notice, which we will send to the last known address you gave us. We will refund the payment for the period of insurance you did not use. We may do this if the property is so badly maintained that there is no reasonable chance of a future claim being successful".

Therefore, I do not consider Rentokil's decision to remove cover from Mr J's policy for a wood-rotting fungus was unfair or unreasonable in the circumstances.

my provisional decision

My provisional decision is that I partially uphold this complaint. I am not minded to make any award against Rentokil Insurance Limited, other than to endorse the offer it has already made, to reimburse Mr J's premiums totalling £1618.47 and to pay him £50 compensation for the inconvenience caused. This is in addition to the premium refund of £449.21 already paid.

developments

Upon receipt, Rentokil confirmed that it had nothing further to add while Mr J reiterated his general position. Specifically highlighting that;

- he did not believe that Rentokil agreed to carry out an inspection as a gesture of goodwill,
- he did not have his own inspection report, suggesting that the property was subject to wet-rot, at hand when he asked Rentokil to inspect the property. Although the report was undertaken on 15 March 2012 he did not receive the report until approximately 14 April 2012 which was after Rentokil undertook its inspection,
- he reiterated that he informed Rentokil of a potential problem as soon as he became aware of it, but as he was not familiar with wet-rot he asked for an inspection,
- he regularly maintained the property and that there has to be some fault in the property maintenance for wet-rot to appear,
- why Rentokil has not offered a refund of more than five years of premium,
- he suggested the refund of his premium when he first complained as he did not realise the full extent of the problem.

my findings

I have again considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. As Mr J has mainly reiterated his position, and I have already considered his points (in the main) within my provisional decision, I do not propose to rehearse the arguments again although I will address his latest comments in brief.

Whether Rentokil undertook the inspection as a gesture of goodwill or not is not significant as, upon inspection, it was satisfied that wood-rot could not be covered due to the level of poor maintenance at the property. I am satisfied, on the evidence before me, that the property was not maintained to a reasonable standard.

I accept Mr J's point that some kind of problem is likely to have caused the wood-rot in order to make a claim. However, I would expect such a problem to be unforeseen. In this instance it is clear that there were a number of significant potential problems (as identified by Rentokil and his own independent inspection) and that the property was not maintained to the required standard as laid down in the policy terms and conditions.

Although it is clear that Mr J was not provided with his own wet-rot and damp inspection report until sometime after 10 April 2012 it inspected the property on 15 March 2012 and I would presume that some discussion about wet-rot would have taken place at that time. Either way, it was before Rentokil's inspection and would suggest, on balance, that Mr J was aware of the wet-rot problem before he contacted Rentokil and yet he did not contact Rentokil, in the first instance, to make a claim.

Overall, I am satisfied that Rentokil's offer to refund Mr J's premiums for the past five years is fair and reasonable. It would seem reasonable to conclude that the property had not been so poorly maintained that a claim, before that time, would have been rejected. Without any evidence to the contrary I believe the offer of refund to be reasonable.

I note that Mr J has said that although he would have been happy with a refund initially, that he feels that he now wants the claim to be dealt with in full as he now understands the extent of the damage and the costs involved. However, I can only consider what is reasonable and as I am satisfied that the property was not maintained to a reasonable standard.

It is clear from both Rentokil's report and Mr J's own damp specialist report that the property was not maintained to the standard required by the policy terms and conditions and a number of the issues identified were clearly visible to the naked eye.

For these reasons I see no reason to depart from my provisional decision as outlined above as I am not persuaded that Mr J had a valid claim under his policy. I do not consider Rentokil's decision to remove cover from Mr J's policy for a wood-rotting fungus to be unfair or unreasonable in the circumstances.

my final decision

It therefore follows for the reasons outlined above that I partially uphold Mr J's complaint against Rentokil Insurance Limited. I endorse the offer it has already made, to reimburse Mr J's premiums totalling £1618.47 and to pay him £50 compensation for the inconvenience caused. This is in addition to the premium refund of £449.21 already paid.

Colin Keegan
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