

complaint

Mr S complains that MCE Insurance Company Limited have repudiated the claim he made under his motorcycle insurance policy for the theft of his motorbike.

background

Mr S had a third party, fire and theft policy which didn't cover him for commuting to work or business use. When he first reported the theft to MCE he told the claim handler that he had left it parked near to where he was working. Later he said that in fact he hadn't made the journey in connection with work. MCE didn't accept this account and refused to pay his claim.

The adjudicator who investigated the complaint didn't think it should be upheld. She wasn't persuaded that Mr S was using the motorbike for social reasons at the time it was stolen. Mr S felt that she hadn't been impartial in her assessment of the evidence so he asked for his case to be reviewed.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I have listened to the recordings of the calls Mr S made after the bike was stolen. During the first call he gave a detailed account to the claims handler. He told him that he had parked the motor bike near to where he was working at 11.45am, returning to find it had been stolen at about 5.30pm. This was a lengthy and detailed discussion. Mr S remained calm throughout.

In the second call the claim handler explained to Mr S that his claim wouldn't be met because he wasn't covered for commuting or business use. Mr S challenged this on the basis that when he had upgraded his policy to include fire and theft he was under the impression that he would also be covered for using the bike for work. The claims handler promised to go back and listen to the call made when Mr S agreed the upgrade to see whether he had been mistakenly informed that he was also extending the terms of the policy to cover work journeys.

Mr S called MCE a third time. He told the claims handler that he hadn't had a chance to explain the full facts surrounding the theft of the bike. He expressed surprise that the details of the theft had been taken over the phone rather than sending him a form to fill in. This was a difficult call. Initially he was told the case was with the underwriters and that he couldn't speak to anyone else. Mr S was eventually put through to a manager. He told the manager that in fact he was meeting a colleague who worked in the same industry, and that he was waiting for him to finish his shift so they could go for a drink. He told the manager that he worked some distance away, that he wasn't at work that day and could provide an email confirming this.

The email Mr S sent MCE came from the company he had named as his employer. It said Mr S did some freelance work for it and confirmed that he wasn't working for it that day.

Mr S has also sent a letter from another company stating that "*on the date in question*" Mr S wasn't working but had gone there "*simply to provide some guidance and advice to a friend.*"

Mr S has given a number of different reasons for his presence in the street where his motorbike was stolen. I have concluded on the balance of probabilities that the account he gave the claims handler when he first phoned to report the theft is the one that is accurate.

My reasons for this conclusion are:

- The account Mr S gave during the call was detailed and coherent. He says that he was suffering from shock at the time, but while I can understand how someone affected by shock might have difficulty answering a series of questions, I don't see how this would result in giving the wrong answer to a relatively straightforward question;
- Mr S's first reaction on learning that MCE wouldn't meet the claim, was to argue that he had been led to believe that he was covered for trips to work. He only told MCE that he had in fact been using the bike for social purposes during the third call;
- During the third call Mr S told the manager he was meeting a former colleague for a drink but this doesn't accord with the timings he gave to the original claims handler. He told him that the bike had been parked between 11.45am and 5.30pm. This is more consistent with a working day than a social occasion;
- Mr S told MCE that he hadn't in fact been using the bike for work purposes only after he was informed that his claim was likely to be rejected because of the restriction on his policy;
- The letter that Mr S has now sent us gives yet another reason for his journey – namely that he was going to provide advice and assistance to a friend. I can't attach much weight to the letter because it is undated and doesn't confirm either the date or the place in question. I would also add that I think it's unlikely that calling in to provide unpaid advice and assistance would have taken over five hours.

I am satisfied that the evidence available supports a finding that, at the time Mr S's motorbike was stolen, he was using it to get to work. It's clear from the email he sent to MCE that he works on a freelance basis, so the fact that he wasn't in regular full-time employment doesn't affect my finding. It follows that Mr S didn't have cover for theft under the terms of the policy and that MCE was entitled to repudiate the claim.

my final decision

For the reasons set out above I do not uphold the complaint. I make no award against MCE Insurance Company Limited

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 1 June 2015.

Melanie McDonald
ombudsman