

complaint

Mr C complains on behalf of his business, H, a hotel, that in respect of a commercial insurance escape of water claim Allianz Insurance Plc delayed in dealing with snagging issues and that its contractors damaged glass in a door.

background

In November 2015 Mr C raised a claim to Allianz following a water leak. But because he had tenants he didn't want to proceed until they left. He was advised in April 2016 by Allianz not to leave the work as the damage would get worse. The work began in May 2016, drying works being completed by August. The repair work had to be fitted in around bookings, but it was essentially completed by March 2017. Mr C advised in June 2017 that there were still some snagging works to be completed. These took a long time to be completed as Allianz found it difficult getting in touch with the contractor. The snagging works were completed around about August 2018. But Mr C said there were still two issues which hadn't been resolved – movement to a picture rail and paint splashes on the etched glass in a door.

Allianz agreed that there had been delays and a lack of communication and to pay compensation of £200. In respect of the picture rail, it said that it wasn't removed but that as a joint was on a part of the wall that was bowing, it might have opened slightly. But it didn't propose to do anything about that. So far as I can see Mr C didn't raise the issue again. In respect of the glass in the door, it agreed to the contractors coming back to clean it. But after several attempts although the paint was removed there were still marks on the glass. The contractors insisted that they had used water-based paint so the solvent would have removed it. Allianz concluded that this must have been pre-existing damage.

On referral to this service our investigator thought that Allianz had acted reasonably. He didn't think there was enough evidence to say the paint marks weren't there previously.

Mr C didn't agree and asked for proof of the type of paint used. The contractors were able to show they had purchased a water-based paint for the woodwork and said they had used ordinary emulsion on the walls and ceiling. Mr C thought that Allianz should be able to show that the method used to remove the paint was effective even on water-based paints. He also thought the amount of compensation was too low.

The matter has been passed to me for further consideration.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

There are two issues remaining – the glass in the door and the amount of compensation.

With regard to the glass, I have to decide whether it is most likely that the remaining staining was pre-existing or was caused by the contractors. If there's not enough evidence to decide either way I'm afraid I won't be able to uphold the complaint.

Mr C says the contractors were prepared to clean the glass and didn't mention anything about pre-existing stains until they found out it was etched glass rather than a film on the glass. He also believes Allianz should provide detail about the type of solvent used and that

it would clean off water-based paints. He has shown us a video of him using white spirit type solvent on a patch of woodwork painted by the contractors. It doesn't remove any of it.

So far as the type of paint used the contractors have shown they bought a "satinwood" paint for the woodwork, which is water based. They say they used ordinary emulsion for the walls and ceiling. I don't think they need to prove that – it seems to me to be very unlikely that anything other than (water-based) emulsion would be used.

As far as any responsibility is concerned I think the contractors agree that there were some paint spots which they have cleaned off. They dispute that they are liable for the remaining staining as they say that the paint would have come off the glass, and this was only evident after the cleaning was attempted. I don't think Mr C's video proves anything – I wouldn't expect the paint to come off woodwork unless it was with very strong solvent. But it does seem feasible for small splashes to be removable from glass, especially if the paint had recently been applied.

Mr C denies there was any staining there before though there aren't any photos to show this.

There are limitations on what an investigation by this service can achieve. If there are expert reports we will consider them but we don't carry out forensic investigations. Bearing that in mind I don't think there is sufficient evidence to show one way or the other that the remaining staining on the glass was caused by Allianz's contractors. So unfortunately I can't uphold this particular complaint.

With regard to the compensation, I bear in mind that this is a business. The policyholder is Mr C trading as H. A lot of the work had to be done around the various bookings. The same applied to the snagging works. But Mr C had to do a lot of chasing. However the hotel was able to continue without the business being affected. So although it caused Mr C some inconvenience that was in relation to the business rather than it affecting him personally as he doesn't live on the premises. I think the compensation paid is fair and reasonable. And in line with awards we have made in other similar cases.

my final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 23 October 2020.

Ray Lawley
ombudsman