

complaint

Mr Y complains that Zenith Insurance plc has voided his car insurance policy because it says he didn't tell it about modifications to the vehicle. This means Zenith won't deal with the claim he has made following a road accident.

background

Mr Y took out the policy through a price comparison website, so the information he provided at that time was to an intermediary. When Zenith sent him the policy documents, it asked whether his car had been modified which it defined as '*any modification to the manufacturer's specifications e.g. alloy wheels, suspension, bodywork or engine.*' Mr Y told Zenith the car had alloy wheels. In fact it had a number of other modifications. These included tinted windows, performance exhaust, the rear bumper, wrap around roof, lowered suspension and the front grille. For most of these modifications, Zenith would have been willing to provide Mr Y with cover but at a higher premium. However Zenith's underwriting criteria make it clear that cover won't be provided to vehicles with a wrap around roof.

On that basis Zenith voided the policy (treated it as if it had never existed). This meant Mr Y wasn't covered for the accident he'd been involved in. Zenith says that the car had been extensively modified and Mr Y ought to have realised it.

Mr Y says he bought the car second hand and had no idea that it had all these modifications. He says the fact that he declared the alloy wheels is evidence that he did his best to answer the question about modifications.

my findings

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

Unlike the failure to disclose a previous accident or conviction, which is obviously within the direct knowledge of the policy holder, where a vehicle has been purchased second hand, the question of whether or not it has been modified can be far more difficult to answer. The extent to which someone should have realised a vehicle has been modified will often depend on his particular knowledge and experience of cars in general, as well as the specific model in question. This means that modifications, which may be immediately apparent to a mechanic, wouldn't necessarily be picked up by someone less well-informed.

In this case Zenith has provided helpful photographs of Mr Y's car. Having looked at them, the adjudicator thought that Mr Y should have picked up the fact that the tinted windows, front bumper and performance exhaust were modifications to the standard model. But he didn't think it was obvious that the front grille and wrap around roof had been modified, nor did he think Mr Y could reasonably have been expected to pick up the possibility that the suspension had been lowered.

Looking at the photographs, I agree with the adjudicator. Zenith says the wrap around roof is obvious because the vinyl used has a matte finish. But I don't think the wrap around roof is obvious. The colour doesn't match the bodywork but its dark grey finish gives the appearance of being part of the design and finish to the vehicle. So I accept that Mr Y didn't realise the roof had been modified. On the other hand the photographs show that the

exhaust and the bumper do appear to be non standard, as do the tinted windows. These are features of the vehicle I consider it would have been reasonable for Mr Y to pick up on.

It follows that I agree both with the adjudicator's findings and his recommendations. Zenith should now put Mr Y back in the position he would have been, if it hadn't voided the policy. This includes reinstating the policy and dealing with the claim in accordance with its terms. Given my finding that Mr Y should have picked up the modifications to the front bumper, windows and exhaust, these can be taken into account to the extent that Zenith will need to recalculate the cost of the premium on the basis that these features had been disclosed. Its' liability to pay the claim will be limited to the proportion of the premium Mr Y actually paid.

On any analysis this has been a very stressful experience for Mr Y. Having had a policy voided for non-disclosure meant that he couldn't afford to insure his car because of the high cost of doing so. Zenith will need to amend the internal and external insurance databases to remove the record that the policy was voided. I will also ask it to confirm in writing to Mr Y that it has done this.

Although I am not making a formal award for loss of use, as part of the compensation for trouble and upset, I have taken into account the inconvenience for Mr Y of not being able to afford to have his car on the road. Taking into account the worry and inconvenience he has experienced, I think £500 is fair and reasonable compensation for this.

my final decision

I uphold the complaint. I direct Zenith Insurance plc to:

- Reinststate Mr Y's insurance policy;
- Amend its internal and the external insurance databases by removing the record of the policy have been voided and;
- Within fourteen days of doing so, confirm in writing to Mr Y this has been done;
- Deal with Mr Y's current claim on a proportionate basis, taking into account the cost of the premium it would have charged Mr Y, had he informed it of the modifications to the windows, front bonnet and exhaust. It should calculate what proportion of the premium he has paid in determining what proportion of his claim it should pay;
- Pay Mr Y £500 for trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 1 March 2017.

Melanie McDonald
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