

complaint

Mr Y complains that Markerstudy Insurance Company Limited declined his claim on a motor insurance policy.

background

Mr Y left his trike in a locked garage. Someone took it and he did not get it back. He complained when his insurer declined his claim – saying the trike was not locked.

The adjudicator did not recommend that the complaint should be upheld. She concluded that Markerstudy had not acted incorrectly in declining the claim. She said that there was a lack of evidence that Mr Y had complied with the policy term to use a lock.

Mr Y disagrees with the adjudicator's opinion. He says, in summary, that Markerstudy's investigator has misquoted him.

my findings

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

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I have seen the following endorsements:

"E271 EXCLUDING THEFT WHEN NOT GARAGED

We will not pay any claim under Section 2 for loss or damage by theft or attempted theft when the insured motorcycle is parked at the Insured's permanent place of residence and/or the declared garaging address, unless the motorcycle is kept in a properly constructed and locked garage.

703 A SOLD SECURE APPROVED LOCK MUST BE FITTED FOR THEFT COVER TO APPLY.

We will not provide any cover under Section 1 & 2 of the policy (i.e. any claim for loss or damage by theft or attempted theft of the insured vehicle) unless we have proof that it is fitted with a sold secure approved lock whenever the insured vehicle is left."

The endorsements are listed on the first page of Mr Y's insurance policy schedule and set out in full on the second page. Therefore I am satisfied that Markerstudy drew them to his attention and he ought reasonably to have been aware of them.

Mr Y and the insurer's investigator had some discussion. I have weighed up their conflicting accounts of what Mr Y said. I am mindful that the police did not record the use of a lock. Therefore I prefer the evidence of the investigator that – in his first accounts of the circumstances of the theft - Mr Y did not say that he had fitted a lock to the trike.

On balance I do not conclude that Markerstudy treated Mr Y unfairly or unreasonably by declining his claim on the ground of endorsement 703.

my final decision

For the reasons I have explained, my final decision is that I do not uphold this complaint. I make no award against Markerstudy Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr Y to accept or reject my decision before 15 December 2014.

Christopher Gilbert
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