

## **complaint**

Mrs D is dissatisfied with the way her claim under her home insurance policy following damage caused by a water heater leaking has been handled by UK Insurance Limited ("UKI").

## **background**

Mrs D made a claim to UKI in March 2011 after she discovered that a heater in her kitchen had been leaking. Unfortunately the repairs did not go smoothly. Mrs D was effectively left without kitchen facilities until she moved to China to take up employment in August 2013. I will not go into the whole history of the claim here as the parties are well aware of it.

Mrs D initially complained to this service in October 2012. After a review of her complaints, an adjudicator issued an adjudication in January 2014, which the parties accepted. This dealt with Mrs D's complaints up until July 2013 but left a lot of issues for the parties to agree on or for UKI to decide how it would deal with those issues. Also some new matters had arisen in the interim which had not been addressed in the adjudication. Mrs D made a further complaint to this service in April 2014, which a different adjudicator dealt with. She essentially concluded that UKI's actions since July 2013, and its responses to the issues remaining or further complaints after the adjudication, were reasonable.

Mrs D remained very unhappy about this and asked for the matter to be referred to an ombudsman for a final decision

## **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 should explain at the outset that we operate an informal dispute resolution service. This is a complex and detailed complaint but in assessing the evidence I make findings on the basis of what is more likely than not to have happened. I will try to be as comprehensive as possible but Mrs D should understand that this is not a court of law and I have to make judgements based on the papers in front of me.

I believe that Mrs D is disappointed that the second adjudicator did not address the issues set out in her original complaint, as she had been assured they would be. The first adjudicator issued an adjudication which at the time was accepted by both parties. Mrs D signed a settlement letter confirming she accepted it. However the adjudication did not, as I have said above, reach final decisions on all issues. I shall now set out the issues set out in the adjudication and explain which matters were left open for further consideration and which issues were closed at that stage by both parties accepting that.. I shall also set out my decision on those matters which were left open.

### *election to repair*

In the adjudication it was found that UKI had elected to repair, but that its contractors failed to repair to a satisfactory standard. Mrs D decided that she wanted to use her own contractor to finish the repairs. Mrs D should not have been asked to stay in her own home and should have been offered alternative accommodation rather than be expected to use the facilities in

her home and be paid a disturbance allowance. The failings by UKI's agent caused Mrs D very considerable distress and inconvenience.

I shall deal with the amount paid below. Both parties are bound by those findings, which I agree with.

*effects on health*

Mrs D complained to UKI on more than one occasion about the effect that living in these conditions had on her health and it failed to address this. She subsequently produced a letter from her doctor and asked UKI to reconsider this. This complaint was left open for reconsideration.

UKI did reconsider this and, taking into account the evidence of her health, offered a further £1,000 (as well as the payment detailed below for distress and inconvenience).

I have considered this complaint and UKI's response. I note that Mrs D had health problems prior to her insurance claim, but I nevertheless recognise that the conduct of the claim by UKI's agents had a bad effect on her health. However in considering this as part of the general distress and inconvenience suffered by Mrs D, I do think that a payment of £1,000 is appropriate for this element of her complaint. I have taken into account that once she had moved to China, UKI was no longer responsible for this, as I shall deal with below.

*the disturbance allowance*

Mrs D complained about the level of disturbance allowance she received, the late payment of it, the effects this had on her and the fact it ceased when she went to China. The first adjudicator explained that the level paid (£15 per day) was greater than the amount we usually expect insurers to pay. It was also explained that the allowance is expected to cover those expenses incurred *over and above* the amount the person would *normally* pay for food or other living expenses. If Mrs D sought a payment in excess of that she would have to produce receipts for it. The adjudicator also said that ending this payment at the point where Mrs D went to live and work in China was in his opinion correct. However, he did add that Mrs D's assertion that UKI's actions forced her to move to China was outside the scope of that complaint.

The adjudicator went on to consider the effect late payment of this allowance had had on Mrs D. particularly that she had to incur credit card debts because of this. He said that *"UKI should complete analysis of Mrs D's credit card statements taking the actual interest paid and repay interest she need not have paid and its cumulative effect had her disturbance allowance been paid at least monthly."*

By accepting the adjudication Mrs D accepted that the amount of disturbance allowance paid was reasonable. In any case my view is also that it was set at a reasonable figure and I would reiterate that it was for Mrs D to show that she had incurred expenses over the allowance paid. As for any credit card interest she has incurred, I agree that it would be reasonable to produce credit card statements so that UKI can analyse this as set out by the adjudicator. I understand that Mrs D is unable to produce such statements. I am afraid that if she cannot do so (she could obtain duplicates from her credit card provider) then it would be unreasonable to expect UKI to make any payment in respect of this

As for moving to China, this appears to me to be a decision Mrs D made because of actions by her employer in this country. Whilst she asserts that she had to do this as she had been unable to have a lodger while the claim was being dealt with, I do take the view that UKI cannot be held responsible for this. This means that I also think it reasonable that the disturbance allowance ceased when Mrs D moved to China. The allowance is paid whilst the consumer has to live in their home with a lack of facilities. Once Mrs D moved elsewhere, it ceased to be payable.

*claims issues where UKI had failed to issue a decision*

There were a number of issues arising out of previous opinions by this service where UKI had not made a decision:

*1 redecoration works to the bay window*

UKI has made the agreed payment for this. Mrs D has recently asked that UKI assess the likelihood of the new paint being a match. UKI has said that the area must be painted first and it will then if necessary reconsider the matter. I find UKI's position to be reasonable. Mrs D should arrange for the bay window to be painted first.

*2 tiling*

UKI should ensure that it adds interest to the agreed payment. I understand that this has been done.

*3 electrical works*

UKI should pay for the moving of the cooker switch. This has been agreed and paid.

*4 plumbing works*

There is agreement that all expenses incurred have been met.

*5 woodwork and redecoration costs*

UKI should deal with the claim for redecoration of the lounge, and the worktop resurfacing in the kitchen. Both these points were raised with Mrs D. I have seen the invoice for the kitchen worktop so I assume it has been paid. By accepting the adjudication UKI agreed to deal with both these issues, and is liable to pay for them, so if there is any amount outstanding Mrs D should advise UKI.

*6 laptop*

Mrs D says that she damaged her laptop beyond economic repair when she fell because of the conditions she had to live in. UKI will not pay this as part of the claim but will consider a new claim for accidental damage. I would consider UKI to be liable to deal with this if its contractors were negligent (eg if its contractors left equipment in an unsafe position or failed to cover up holes in the floor), but not just because of possessions being stacked in the living areas. I consider UKI's offer to be reasonable.

*7 gazebo*

Mrs D had to buy a gazebo and seating to have somewhere hygienic to eat during the summer of 2012 and wants a payment for this. UKI was asked to consider this matter. It has however declined to pay the cost of this. I do not think it reasonable to expect it to pay. Mrs D was paid an enhanced disturbance allowance to compensate her for the lack of facilities in the kitchen and could have used part of this to pay for the gazebo and seating. I do not propose to make any award in respect of this.

*8 travel costs*

UKI has agreed to pay the £18 incurred by Mrs D in travelling to choose her replacement tiles.

*9 broken china*

The first adjudicator said that UKI should pay the cost of this at just over £100. I assume it has been paid.

*10 rugs/carpets*

UKI agreed to pay for the cost of new rugs as a result of the adjudication. It has asked for evidence of where Mrs D purchased the rugs from. I consider this to be reasonable, so if she has not yet done so, Mrs D should provide this information to UKI.

*11 christmas dinner*

A payment has been agreed for this.

*12 electric heaters*

UKI has agreed to pay for these if Mrs D can provide evidence of purchase. I assume this has now been dealt with.

*13 cost of appliances*

Mrs D asked to be repaid the cost of various small appliances she bought so that she could cook food at home without an oven. UKI's response was that the disturbance allowance was intended to cover this. In the adjudication this was found to be fair and reasonable. Mrs D has accepted the adjudication so the issue cannot be reopened.

*14 increased heating costs/costs of drying the property*

Mrs D is entitled to have this repaid by UKI. UKI asked for evidence of the increased cost, which I do not think is unreasonable. I have assumed that Mrs D is now satisfied it has been paid. If not, and she has produced the necessary proof, she should raise it with UKI. I confirm that UKI is bound to pay for this if it receives the proof (eg electricity bills, receipt for purchase of oil.)

*loss of ability to take a lodger*

The first adjudicator found that UKI should meet the potential income Mrs D may have obtained had her home been returned to her in a repaired state in September 2011. He did not make any finding as to the appropriate amount, leaving this for UKI to assess. Mrs D asserted that it was her intention to take in a lodger before the claim was made. UKI has made an offer based on a potential income of £250 per month. Mrs D feels that she could have obtained £400/£450 per month and wants UKI to pay this amount.

Where the property becomes uninhabitable because of an insurance claim, insurers will usually pay loss of rent up to a limit set out in the policy. However this would be either where there was a tenant in place immediately before the claim or where clear arrangements had been put in place. Here, although it has been established that Mrs D had in mind taking on a lodger, no arrangements had been put in place. It would be difficult therefore to establish a firm monetary loss. In those circumstances I think it right to look at this as a loss of opportunity and to compensate Mrs D for that. UKI has made a payment of £4,750, which I think is fair and reasonable.

*council tax*

Mrs D does not feel it is fair that she paid full council tax when she was only living in one room. She believes that UKI should pay for this cost. I understand that she has not previously raised this matter with UKI. She should now do so if she wants it to consider it.

*heating system*

Mrs D complains that UKI will only pay for the replacement of her boiler when she has been advised that the whole system needs replacing. This is because the system was shut down for several months because she could not afford to pay for heating oil. As UKI has accepted replacement of the boiler, I believe it should consider whether any other parts of the system need replacing as a direct result of this. However the only evidence of this that I have seen is advisory and that it is not known whether there is any damage to pipes and radiators. If, when the boiler is replaced, other parts of the system are identified as needing replacement, Mrs D can then raise it with UKI. I think it should consider paying for any further repairs at that stage. Otherwise, at this stage I consider the payment made for the boiler to have been fair.

*personal possessions and cleaning*

UKI wants to return all Mrs D's personal possessions but she does not want this to happen until the property can be thoroughly cleaned. UKI has offered to remove all the possessions, make sure that the house is thoroughly cleaned and replace them all, including the items in storage. It had previously said it would do this but could not reach agreement with Mrs D. It has repeated its offer but does require Mrs D's full co-operation. I can understand that Mrs D both wants the house fully cleaned but wants to keep tabs on all her possessions. She has indicated that she is prepared to co-operate and I think that is a reasonable way forward.

*distress and inconvenience*

It was found by the first adjudicator that the handling of the claim had caused Mrs D a significant degree of distress and inconvenience. He proposed a payment of £2,000 which both parties agreed to, and which I think was reasonable to reflect the circumstances as at July 2013. UKI also paid a further £1,000 to compensate her for the health issues (which I have dealt above). I have considered whether to direct any further payment but I do think that the remaining issues concern arguments about what Mrs D believes she is entitled to receive, agreements over payments and the completion of the cleaning. Since the adjudication Mrs D has been in China and the effects of having to live as she did, ceased. I have already set out that I do not think that UKI is responsible for her having to move. I do not therefore propose to add any further compensation.

*overall*

I think that the compensation paid is fair. For those issues where I have set out that Mrs D must liaise further with UKI, she should do so and produce any necessary evidence. She has said that she is willing to co-operate with UKI's proposal for a deep clean of her property, both upstairs and downstairs, so she must deal with UKI further over this.

**my final decision**

My final decision is that I do not uphold the complaint and make no further award.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs D to accept or reject my decision before 20 March 2015.

Ray Lawley  
**ombudsman**