

The complaint

Mrs P's complaint is about a claim she made on her U K Insurance Limited ('UKI') rent guarantee insurance policy, which UKI declined.

Mrs P says UKI treated her unfairly and should accept her claim.

All references to UKI include their claims handlers.

What happened

Mrs P made a claim on her UKI rent guarantee insurance policy for reimbursement of outstanding rents that were owed to her by her tenant. UKI considered the claim and declined it. They said that Mrs P reported her claim for reimbursement of rent more than 90 days after the arrears began.

Specifically, DAS said Mrs P reported her claim at the end of March 2023 but the arrears due to her started to accrue in April 2022. DAS said that if the arrears had been cleared within the reporting period, they may well have considered Mrs P's claim but given they didn't and continued to accrue thereafter, her claim falls outside the policy terms.

Mrs P feels this is unfair. She says she didn't think it was fair to claim against the policy with a view to starting eviction proceedings in May 2022 because the tenants only fell short of their rent by £225, which amounted to about one third of the monthly amount payable. Because of this, she took no action until February 2023 when the tenants stopped paying rent entirely and she could no longer make contact with them. She says she claimed against the policy at that time because she needed to start eviction proceedings. Mrs P has also pointed out that she didn't need to recover rent from the tenants back in May 2022- she could have taken this from their deposit instead. Because of this she feels that UKI should honour her claim.

Our investigator considered Mrs P's complaint and determined that it shouldn't be upheld. She said that Mrs P's claim is excluded by the policy terms and if UKI were to accept the claim at this stage, they would suffer prejudice. Mrs P doesn't agree so the matter has been passed to me to determine

What I've decided – and why

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

The starting point is the policy terms. They say UKI will not pay:

"a claim for Rent Arrears reported to (their claims handlers) more than 90 days after the date You should have known about the Insured Incident".

In this case the insured incident is the date Mrs P's tenants fell into arrears of rent. I appreciate that in May 2022, those areas were not significant, such that Mrs P didn't think she had a need to claim on the policy, but the reporting obligations in this type of policy are

clear- even if the arrears weren't so considerable. By reporting the claim at the time, Mrs P would have preserved her position, particularly if the arrears then increased- as they did over time. In the absence of that, her claim is excluded because it was reported more than 90 days after the arrears fell due. In this case, there's nothing to suggest those arrears were cleared before the further arrears she's also claiming for fell due. If they had been, DAS might have determined this to be a fresh claim, but as things stand, the arrears were outstanding for around 10 or 11 months before she notified UKI of her claim.

I know Mrs P doesn't think it's fair for UKI to turn down her claim in reliance of the exclusion they've quoted, so I've also thought about whether it would be fair and reasonable for UKI to accept the claim. I've considered the submissions UKI has made about the pricing of its policies and how claims made within the usual reporting period contribute to that. Accepting a claim outside the policy parameters isn't something they've taken into account when doing so. I appreciate what they say about this, and I understand the wider implications of their accepting this claim. In this case I think the immediate prejudice to them is the fact that they weren't able to mitigate their loss as a consequence of being notified of the claim at the right time. Had Mrs P have notified them when those arrears fell due, UKI would've had the opportunity to take action on her behalf to mitigate further sums falling due, which they would ultimately need to reimburse her for. Because she notified them so late, UKI have now lost this opportunity. As such I don't think it's reasonable for them to now reimburse her for the sums she's claiming.

I understand UKI has accepted the claim for eviction and rent recovery however and appointed a firm of Solicitors to act for Mrs P in respect of that claim. It's possible that Mrs P will be successful in recovering the sums she's owed through that means. So, whilst my decision will be disappointing to her, she may still be successful in recouping her losses.

My final decision

For the reasons set out above, I don't uphold Mrs P's complaint against U K Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 6 November 2023.

Lale Hussein-Venn
Ombudsman