

The complaint

Mr O is unhappy that Haven Insurance Company Limited declined a claim he made on his motor insurance policy.

What happened

Mr O drove his car to a petrol garage to fill up with fuel. He went into the garage to pay and noticed someone driving the car away. He claimed on his car insurance policy for the theft as the car wasn't recovered.

Haven declined the claim because they said Mr O hadn't locked the vehicle and this was clear from the CCTV. Mr O said he locked the car and he is a victim of a sophisticated fraud. He thought a 'jammer' might have been used to block the signal between the key and the car. As he didn't agree with Haven Mr O complained but Haven maintained its decision to decline the claim.

Our investigator looked into what had happened and didn't recommend the complaint be upheld. He found that the CCTV footage of the theft didn't show the car being locked. So, he thought it was reasonable for Haven to decline the claim under the term which said it wouldn't cover theft if the car wasn't locked. He also wasn't persuaded, on balance, that a jammer had been used to prevent the car locking.

Mr O didn't agree and asked an ombudsman to review his complaint. In summary, he said that there were a number of articles in the press about these vehicles being stolen. He also said that even if he'd gone to check if the vehicle was locked before moving away that it would have reopened due to the keyless car technology on that model. So, I need to make a decision.

What I've decided – and why

The relevant rules and industry guidelines say that Haven has a responsibility to handle claims promptly and fairly. And they shouldn't reject a claim unreasonably.

The starting point is the policy terms and conditions. It says there is no cover for:

Damage or loss to Your Car, spare parts, Accessories or Personal Belongings by theft, attempted theft or unauthorised use when:

- a) Your car (including its boot and bonnet) is unlocked; or
- b) Your Car's windows, sun roof or convertible roof are left open; or
- c) The keys (or other form of Car entry device) have been left in Your Car; or
- d) You have not taken other reasonable precautions to protect Your Car.

I don't think it was unreasonable for Haven to reject the claim because:

- The CCTV doesn't show that the car locked. The lights on this model would usually flash and the wing mirrors would fold in. But that didn't happen when Mr O moved away from the vehicle.
- I'm not persuaded Mr O took reasonable care to ensure that the vehicle was secure. I can see that Mr O's hand moved towards his pocket as he moved away from the vehicle. It's not possible to say from the CCTV that he was locking the vehicle when he did so. But, in any event, Mr O was facing away from the car when he did this and it's clear from the CCTV footage that the car didn't lock. So, as he wasn't looking at the vehicle, he wasn't able to see the visual signs that the car failed to lock as he'd usually expect.
- I don't think there's persuasive or compelling evidence that a 'jammer' was used in the circumstances of this case. I've thought carefully about Mr O's representations on this point. But Haven has pointed out that the CCTV evidence shows that other vehicles on the forecourt were still working and receiving signals at around the relevant time. I accept that it's possible a jammer may have been used. However, I don't think that's most likely to have been the case here based on that the evidence that's available to me.
- Mr O had the only key to the vehicle. He was still in possession of it after the theft and there's no evidence to suggest that a third party was in possession of an additional key.

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

My final decision

I'm not upholding Mr O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 26 October 2023.

Anna Wilshaw
Ombudsman