

## **The complaint**

Mr T says Aviva Insurance Limited (Aviva) unfairly declined his claim following an escape of water and avoided his home buildings insurance policy from the date of his claim.

## **What happened**

In December 2022 Mr T identified a leak from an upstairs pipe. He arranged for it to be located and fixed. He then contacted Aviva to make a claim. He says it initially accepted his claim but later told him it was declined, and his policy was cancelled.

Mr T says Aviva declined his claim because he'd made a claim seven years earlier involving his downstairs toilet. He says there was a small section of tiling that he didn't have repaired from the original claim. This overlaps with the damage reported in his most recent claim. Mr T says this was a mistake when he made his claim, but he doesn't think it's fair for Aviva to respond the way it has.

In its final complaint response Aviva says there are areas of damage that form part of Mr T's current claim, that weren't repaired using the cash settlement from his claim in 2017. It says in these circumstances it's able to rely on its policy terms to decline his current claim and avoid his policy from the date this was made.

Mr T didn't think Aviva had treated him fairly. So, he contacted our service and asked us to consider the matter. Our investigator didn't uphold his complaint. He says Mr T received a payment in 2017 for repairs to his hallway and downstairs toilet. He didn't complete these repairs and included the same areas in his most recent claim. Our investigator didn't think Aviva had behaved unfairly when relying on its policy terms to decline the claim and avoid the policy.

Mr T disagreed and asked for an ombudsman to consider his complaint.

It has been passed to me to decide.

## **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.

Having done so I'm not upholding Mr T's complaint. I'm sorry to disappoint him but I'll explain why I think my decision is fair.

Aviva refers to a claim Mr T made under his building's insurance in 2017. It says the damage he's now claiming for the hallway floor, and the tiles in his downstairs toilet, was included in its previous settlement payment. I asked Aviva to provide the records showing what was included in Mr T's 2017 claim. It responded providing a scope of works. This shows the repairs to the hallway floor and tiles in the downstairs toilet were included in this claim. The document provided states the claim was 'cash settled' in December 2017.

I can see that Aviva's claims manager wrote to Mr T on 25 January 2023. He says having

looked at the photos from the 2017 claim compared with the current claim, neither the bathroom wall tiles, nor the hallway flooring were ever replaced. The letter says that Mr T's wife recalled the hallway, stairs, and landing were redecorated, and new flooring laid by a contractor approved by Aviva.

In his emailed letter the claims manager says he's double checked what happened, and no work was carried out by Aviva's contractor. It says the claim was cash settled for £971.96 after deduction of the policy excess. The claims manager reiterates his view that he didn't think repairs had taken place and asked Mr T to comment.

Mr T emailed Aviva's claims manager back on 25 January 2023. He says the hallway flooring has been replaced. However, he does acknowledge that the tiles in the downstairs toilet weren't. Mr T says he apologises for including this in his claim and says it was an innocent mistake.

I've looked at the 2017 claim photos and compared these with the more recent photos taken when the damage was inspected. I think it's clear that the wall tiles in place now, in the downstairs toilet, are the same as those in place in 2017.

I asked Aviva to provide the photos taken more recently that it used to compare with the hallway photos from 2017. It responded with copies of photos it had from 2017 and the more recent claim. I can't see recent photos of the hallway floor in the more recent photos, other than one photo of a small section of the hallway floor that forms the boundary with the downstairs toilet. This isn't helpful in showing whether the flooring was replaced after the 2017 claim. However, the assessor who inspected the damage reported that neither the hallway flooring nor the tiling in the toilet had been repaired/replaced.

I've thought carefully about the testimony provided by Mr T and his wife. But the records show no work was carried out by the contractor appointed by Aviva in 2017. This is at odds with what Mr T and his wife told Aviva. Mr T hasn't provided any evidence to show the flooring was replaced in the hallway.

Based on this evidence I'm more persuaded by Aviva's position that a payment was made to Mr T in 2017 to cover the cost of repairs to the damaged flooring and tiling. But the repairs weren't carried out. This means that Mr T's more recent claim included some of the same areas of damage already claimed for in 2017 that he hadn't had repaired. Although Mr T says this was a mistake. I think it's fair that Aviva expects him to provide accurate information and not make a claim for repairs he'd already received payment for.

Under the heading, "*General Conditions*", in section four of Mr T's policy terms and conditions it says:

**"4. Fraud**

*If your claim is at all dishonest or exaggerated we will not pay you anything under this policy or return any money you have paid. We may also cancel your policy immediately and backdate the cancellation to the date of the fraudulent claim. We may also take legal action against you."*

Based on this evidence I'm satisfied that Aviva treated Mr T fairly. It followed its policy terms when declining his claim, and cancelling his policy backdated to the date of his claim. So, I can't reasonably ask it to do anymore.

**My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 25 December 2023.

Mike Waldron  
**Ombudsman**