

## **The complaint**

Mr S and Mr S complain about St Andrew's Insurance Plc's (St Andrew's) decision not to fully settle a claim made under their building insurance policy for subsidence.

Any references to St Andrew's also include its agents.

## **What happened**

Mr S and Mr S own a property which they rented out. They say there is an internal tilt in the property which means they've been unable to rent the property for several years. The damage has already been the subject of a long-running claim, which has involved some repairs and a number of inspections at the property.

St Andrew's says the most recent reports indicated signs of recent movement at the back of the property, and a stabilisation plan was being investigated. However, they considered the tilting of the floor to be as a result of historic movement.

Mr S and Mr S didn't agree, so arranged for a structural engineer to inspect their property. They also noted the tilting of the floor, concluding this was consistent with damage visible on external walls and alluded to downward movement at the rear of the building. Essentially the structural engineer recognised movement in the property but believed there had been settlement over a number of years.

Mr S and Mr S thought St Andrew's ought to do more to repair the damage to the floor and complained. St Andrew's issued two final response letters. The first, in February 2023, said the report from their structural engineer didn't state the cause of the damage was subsidence. Following another complaint, a second final response letter was issued in July 2023 and reached the same conclusion.

Unhappy with St Andrew's response, Mr S and Mr S asked us to look into their concerns. They were passed to one of our investigators who said as the structural engineer appointed by Mr S and Mr S didn't confirm the damage was related to subsidence, she didn't think St Andrew's needed to do anything more in relation to the tilting floors. Mr S and Mr S didn't agree, so this matter has been passed to me.

## **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.

This claim has previously been the subject of a case with this Service and, as our investigator said, here we're focusing only on what's happened since September 2022. So, this decision only focuses on whether St Andrew's acted fairly in continuing to decline part of the claim about the damage to the internal floor on the basis it pre-dated the policy start date.

As a starting point, I think it's helpful for me to set out how the policy defines subsidence:

***“Subsidence***

***Downward movement of the ground beneath the buildings not due to the weight of the buildings.”***

In order for me to conclude St Andrew’s should consider the tilted floors as part of the claim, I’d need to be persuaded there was evidence the damage was caused by the current movement at the property.

St Andrew’s has, in previous cases, considered by this Service, set out why it considers the damage is historic. As those issues have been considered by this Service already, it’s not appropriate for me to revisit them. Instead, I’m considering` what’s happened since September 2022.

Ultimately, the only evidence that has been obtained since the September 2022 is the structural engineers report instructed by Mr S and Mr S. I’ve also been provided with the comments of the surveyor St Andrew’s had previously instructed to inspect the property after they reviewed the report. I’ve noted the findings of this report, which acknowledged there is movement in the property. But this isn’t in dispute, as St Andrew’s has accepted movement to the rear of the property and says a plan is in place to determine the best way to stabilise this movement. The issue is whether the tilting floors have been caused by subsidence.

I’ve considered what the report says about the damage to the internal floors. Having done so, I’ve reached the same conclusion as our investigator and for the same reasons. The report provided by Mr S and Mr S’ structural engineer doesn’t set out a finding the tilting floors have been caused by the current movement and instance of subsidence. It indicates there’s been movement over a number of years. In the observations and comments section, the report said:

*“we believe that these problems are a combination and consequence of settlement in the building over the years and significant movement in the supporting structure, predominantly at the rear of the building.”*

Without evidence to support Mr S and Mr S’ belief subsidence is the cause of the damage to the internal floors; I can’t conclude St Andrew’s has acted unreasonably in declining their request this damage be considered as part of the claim.

While I’m sorry to disappoint Mr S and Mr S, I’m not going to require St Andrew’s to take any further action in

**My final decision**

My final decision is that I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S and Mr S to accept or reject my decision before 28 December 2023.

Emma Hawkins

**Ombudsman**