

The complaint

Mr A and Mrs B's complaint is about two claims Mr A made on their Amtrust Europe Limited ('Amtrust') legal expenses insurance policy, which were declined.

Mr A feels that Amtrust were wrong to decline his claims.

All references to Amtrust include their claims handlers.

What happened

Mr A made two claims on his and Mrs B's legal expenses insurance policy. The first was in relation to the purchase of a television and the manufacturer's refusal to provide a 5-year warranty in respect of it. The second claim was in relation to a dispute over the installation of some blinds which Mr A said wouldn't fully close and began making noises.

Amtrust considered Mr A's claims and declined to cover them. They said the breaches of contract alleged by Mr A occurred before he purchased insurance with them, and this meant the claims weren't covered. Mr A didn't agree. He said the policy also contained a term that meant the claims he'd made would be covered if he held equivalent cover with Amtrust or another insurer continuously from or before the date on which the agreement he was claiming for was made. Mr A said he did have equivalent continuous cover with another insurer, so Amtrust should fund his claims.

Amtrust considered this but took the view it made no difference because the breaches of contract occurred before the policy Mr A and Mrs B had with them was in place. Unhappy, Mr A and Mrs B referred their complaint to the Financial Ombudsman Service.

Our investigator considered their complaint and concluded it shouldn't be upheld for broadly the same reasons reached by Amtrust. Mr A 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.

Having done so, I won't be upholding Mr A and Mrs B's complaint. This is why.

The starting point is the policy terms. It says:

"The insurance covers costs as detailed under the separate sections of cover, less £50

for each section in legal expenses insurance where you appoint our panel solicitor, or £500 where you do not appoint our panel solicitor, and payable at the request of the adviser up to the maximum amount payable where:-

a) the insured incident takes place in the period of insurance and within the European Union"

Insured incident is defined as:

"The incident, or the first of a series of incidents, which may lead to a claim under this insurance".

Period of insurance is defined as:

"The period of time covered by this policy, as shown on your schedule, or until cancelled".

In this case Mr A and Mrs B's policy started in June 2023. Mr A's application for a five-year warranty with the manufacturer of the television was rejected in April 2023. And in the case of the second dispute, Mr A raised issues with the blinds not performing as he expected them to in June 2022. In May 2023 the company he was claiming against said they wouldn't accept the blinds back without Mr A paying postage for them in May 2023. So, I think it's clear that the insured incident- namely the first in the series of incidents, which may lead to a claim, started before cover was in place.

Mr A says that the policy covers:

"Costs to pursue a legal action following a breach of a contract you have for buying or renting goods or services for your private use. The contract must have been made after you first purchased this insurance unless you have held this or equivalent cover with us or another insurer continuously from or before the date on which the agreement was made."

Whilst it might be right that Mr A had equivalent continuous cover in place with another insurer before he took out his policy with Amtrust, I don't think this means they needed to cover his claims. That's because the policy is clear that although there's an exception to when cover might be provided if the contract being claimed for was made before the policy was in place, this doesn't apply *"Where the breach of contract occurred before you purchased this insurance."* Indeed, this is set out in the policy under the heading *"What your policy does not cover"*. So, any claims Mr A wanted to bring for breach of contract needed to be for breaches that occurred after the cover was in place- namely in June 2023- in order for cover to engage. Given the detailed narrative Mr A has given about his claims, I have no doubt that those breaches occurred before that date.

Mr A has said that his previous insurer refused to cover the claims he'd made because he notified them out of time. I can't comment on the reasons given by his previous insurer or whether I consider them to be fair here. I can only determine the actions of Amtrust and in the circumstances of this particular complaint, I take the view that it was fair for them to decline cover in the way that they did.

Mr A has also made the point that the wording of the policy suggests that the breach can occur before the start date of the policy but after the date he purchased the insurance. He says that in the case of the blinds, the breach of contract occurred in May 2023, and he purchased the insurance before this even though his insurance didn't start running until June 2023. I don't interpret the facts of Mr A's claim in this way. Although the ultimate issue Mr A was unhappy with was the blind company saying they wouldn't accept the blinds back without Mr A paying postage for them in May 2023, the breach of contract was not this specific incident. That wasn't the contract Mr A entered into with that company which he said was being breached. Rather the breach of contract complained of were the issues Mr A

identified with the blinds themselves which he said were substandard. He identified this in June 2022, well before he purchased insurance with Amtrust. Because of this I don't agree that this is a claim Amtrust need to consider.

My final decision

For the reasons set out above, I don't uphold Mr A and Mrs B's complaint against Amtrust Europe Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mrs B to accept or reject my decision before 26 December 2023.

Lale Hussein-Venn
Ombudsman