

The complaint

Mr A has complained about HDI Global Specialty SE (HDI)'s decision to reject his claim for an escape of water under his home insurance policy.

Mr A is being assisted in his complaint by a representative.

What happened

Mr A went abroad to visit family. His son lives next door with his family. Mr A's visit was extended due to the declining ill health and unfortunate death of a close relative. During the time he was away, his son regularly stayed overnight at the home and checked on it during the day.

In December 2022 Mr A's son went into the home and discovered water leaking. This was coming from a burst pipe upstairs – it was estimated the water had been leaking for around four hours.

HDI rejected Mr A's claim as it said he had left the property unoccupied for over 30 days. This meant cover under the policy was excluded.

Our Investigator thought HDI hadn't fairly applied the unoccupied exclusion. She found that HDI hadn't been disadvantaged by Mr A being away, as his son was staying overnight at the home and checked on it during the day. She found that the outcome wouldn't have been any different, had Mr A been occupying the property.

So the Investigator recommended HDI deal with the claim and pay Mr A £350 compensation for the distress and inconvenience caused.

HDI didn't agree. It said if Mr A had been home, the heating would have been on and it was less likely that the pipe would have burst.

The Investigator didn't think this was fair for HDI to assume – or to rely on – because the policy terms does not state the heating must be on – and an individual may have a number of reasons as to why they wouldn't have heating on. She didn't think this should be a factor in HDI's decision to reject a claim. In any event, there isn't anything to suggest the heating hadn't been put on by Mr A's son. Mr A's representative says Mr A's son was putting the heating on.

Mr A accepted the Investigator's findings. HDI didn't provide a response to the Investigator. So the case 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.

We look at what is fair and reasonable overall – as well as what a policy says.

HDI's policy says it can exclude cover if the property is left unoccupied for more than 30 days.

It defines the term 'unoccupied' as;

“Unoccupied

Not lived in by you or your family for more than 30 consecutive days. If you and your family move out of the home with no intention of occupying it again we will only allow full policy cover for a maximum of 7 days.

You/your

The person(s) named in the schedule as the insured.

Family

You and your spouse, civil partner or domestic partner, children, foster children, parents and other relatives all permanently living in the home.”

HDI says as Mr A's son didn't permanently live with them, it has fairly applied the above exclusion.

However, as the Investigator explained, we take into account the spirit of cover provided. Mr A explained the reasons why he was away from home for longer than 30 days and I think he did all he could to mitigate his circumstances. Mr A's representative says that Mr A would have been away from the home with his son during the time the leak occurred for a regular event, and would have returned with him at the same time to have made the discovery when he did. Given that Mr A's son checked on the property daily from next door and stayed overnight, I cannot see how HDI has been disadvantaged. And I agree with the Investigator that there is no requirement for the heating to be on in order for a claim to be met under the policy – so the assumption HDI made that if Mr A was occupying the home he would have had the heating is on, and therefore the pipe was less likely to have burst, isn't a fair one to make.

So I think HDI hasn't fairly applied the unoccupied exclusion in this case. I think it should deal with Mr A's claim under the remaining terms and conditions of the policy.

I've no doubt HDI's decision has caused Mr A distress and inconvenience. For this I think it should pay him £350 compensation.

My final decision

My final decision is that I uphold this complaint. I require HDI Global Specialty SE to do the following:

- Deal with Mr A's claim for an escape of water under the remaining terms and conditions of the policy.
- Pay Mr A £350 compensation for the distress and inconvenience caused.

HDI Global Specialty SE must pay the compensation within 28 days of the date on which we tell it Mr A accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 6 February 2024.

Geraldine Newbold
Ombudsman