

## **The complaint**

Mr V is complaining that Ageas Insurance Limited has declined a claim he made on his commercial property insurance policy.

## **What happened**

In November 2021 Mr V contacted Ageas to say his tenant had reported the flooring had lifted in the bathroom and a leak was suspected. Ageas appointed a loss adjuster who visited the property, but said that he thought it was clear this damage had been happening for a long period of time. He also said Mr V's agent told him that the property had been unoccupied for a long time. So Ageas declined Mr V's claim on the basis that it doesn't cover loss or damage that happens gradually and also where the property had been unoccupied for more than 60 days.

In November 2022 Mr V contacted Ageas to advise that a leak had been discovered when he had ripped out some kitchen units. And he said he wanted to claim for the resulting damage. Ageas first said it seemed the damage was related to the claim he'd made before. Mr V disputed that it was the same claim. Ageas arranged for another inspection but concluded that the leak had been ongoing for a long time. It also reiterated that it believed the property had been unoccupied for a long time. However, it acknowledged it had delayed advising him of this and offered him £75 in compensation. Mr V didn't think Ageas was being fair and referred his complaint to this Service.

Our investigator looked into what had happened in detail. It became apparent that Mr V had a tenancy agreement with a third party firm – who I shall refer to as M. M would arrange for refugees or asylum seekers to stay in the property on a short-term basis. And, under the terms of the tenancy agreement, M would inspect the property once a month. She contacted M to understand when it had last arranged for someone to live in the property. But M didn't reply to the investigator.

The investigator then sent her opinion on this complaint and she didn't think Ageas had been unfair. She said Mr V's agent had told Ageas at the start that the property hadn't been lived in for a long time. And she said she hadn't seen anything to show that the property had been occupied. So she didn't think it was unfair for Ageas to decline the claim.

Mr V didn't agree with the investigator and said the following:

- He said M were the tenants of the property and they visited the property at least once a month. And provided an email from M which he thinks shows it was occupied.
- He disputes his agent said that the property had been unoccupied and he said there was a witness that would support this.

## **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.

I've decided to not uphold this complaint.

I should first set out that I'm not considering Ageas's decision to decline the first claim Mr V made as that's already been considered by this Service before in a separate complaint. In this decision I'm considering Ageas's handling of the claim he made in November 2022.

There's no dispute that there's been a slow leak on one of the pipes in Mr V's property. The policy covers loss or damage arising from a leak, but it doesn't cover it where the property has been unoccupied for more than 60 days. The policy also doesn't cover damage that happens gradually. Ageas believes this leak has been happening for a long time and that the property had been unoccupied before the leak was discovered.

I note Mr V disputes that the damage he reported in November 2022 is linked to the previous incident. But the damage is in the same area and I'm satisfied it's most likely to be linked to the same event.

It's been widely accepted that this was a slow leak. So I don't think it can be disputed that the resulting damage has happened gradually. The issue for me to decide here is whether it's fair for Ageas to rely on these exclusions.

As I said, it's clear that this damage has happened over time, but where a consumer has accidental damage cover, I'll also think about whether it could have been reasonably apparent that this damage was occurring – i.e. was the appearance of the damage "sudden and unexpected". In this case Mr V had accidental damage, but I'm not persuaded this damage would have become suddenly apparent.

I note the report by Ageas's loss adjuster sets out the following:

*"During our site visit we were able to see the extent of the damage caused by this supposed leak, however the damage is not consistent with a one-off leak and is more likely due to ongoing issues with the shower tray.*

*The joists are rotten, and the internal wall is sagging. This has been ongoing for some years and not a one-off incident."*

I've considered this, but also looked at the photographs the loss adjuster has taken from the inspection which I think do support his conclusions. I think the photographs show, in addition to other issues, clear damage to the walls and paintwork. I think that the damage would have been reasonably apparent for a period of time before Mr V reported it to Ageas. I recognise that M reported that the tenant had noticed the damage as a result of some lifting of the flooring within the bathroom. But, based on the report of the damage, and also the photographs I can't reasonably say that it wouldn't have been reasonably apparent *before* this that there was an existing issue.

Given all this, I can't reasonably say that it was unfair for Ageas to say that the damage has happened gradually over time. And the policy doesn't cover this scenario.

I'm conscious that Ageas has also said the claim isn't covered because the property was unoccupied. But I don't need to make a finding on this given I don't think it was unfair for it to say the claim isn't covered as a result of it happening gradually.

Finally, I do note that there was an initial delay in the handling of Mr V's claim because it said it was the same claim Mr V had made before. I don't think this was necessarily an unreasonable conclusion given the location of the damage and that I'm satisfied it is linked to the original damage. But I agree Ageas could have been clearer here and there were *some*

delays. However, I don't think Mr V has lost out because of this. So I think the £75 it's offered is more than fair.

### **My final decision**

For the reasons I've set out above, it's my final decision that I think Ageas Insurance Limited's compensation offer of £75 is fair compensation. It should pay this to Mr V directly if it hasn't already done so. I make no further award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 15 January 2024.

Guy Mitchell

**Ombudsman**