

## **The complaint**

Mr S complains that Advantage Insurance Company Limited mishandled his claim on a van insurance policy.

## **What happened**

The subject matter of the claim and the complaint is a van, first registered in 2017.

Mr S was self-employed. For the year from early June 2022, Mr S had the van insured on a policy in the name of an insurance intermediary. Advantage was the insurance company responsible for dealing with any claim. Any claim (except a glass claim) was subject to an excess of £200.00.

Much of the complaint is about acts or omissions of the intermediary on behalf of Advantage. Insofar as I hold Advantage responsible for such acts or omissions I may refer to them as acts or omissions of Advantage.

The van broke down and Mr S engaged a mobile mechanic to repair it. Unfortunately, the mechanic took parts from the van and subsequently became insolvent. Mr S still had the van, but it was unrepaired and had parts missing.

He made a claim to Advantage, and it took the van away for a time. In about August 2022, Advantage declined the claim.

Mr S complained to Advantage that it should've met his claim. In mid-August 2022, Advantage wrote a final response to that complaint.

Mr S brought that complaint to us.

In November 2022, Mr S sold the van.

By early January 2023, our first investigator said that Advantage had made a fair offer to:

1. pay – in addition to the £150.00 already paid – a further £200.00 in compensation; and
2. pay £249.00 hire car cost reimbursement (plus 8% simple interest); and
3. re-assess a theft claim.

In late January 2023, Advantage paid the claim as follows:

hire cost	£3,237.00
parts	£ 585.38
less excess	£ 200.00

total £3,622.38

In late February or early March 2023, Mr S made a further complaint to Advantage that it should've paid him more for the theft settlement. By a final response dated 10 March 2023, Advantage turned down that complaint. Mr S asked us to investigate.

Our second investigator didn't recommend that the complaint should be upheld. He didn't think that Advantage had done anything wrong here.

Mr S disagreed with the investigator's opinion. He says, in summary, that:

- He shouldn't have had to pay hire costs in the first place.
- This ordeal has cost him a large sum of money which wouldn't have had to happen if Advantage had upheld their insurance contract when they had the chance.
- He only chose to sell the van once Advantage declined the claim
- It should be clear to anyone who is reasonable that this is not a fair settlement when taking everything that has happened into account.

### **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.

The Financial Ombudsman Service is bound by the Financial Conduct Authority's dispute resolution rules.

Mr S and Advantage accepted the outcome recommended by the first investigator. So the only outstanding issue was how Advantage would re-assess the theft claim. Mr S made a new complaint about that.

In line with the rules, I'm reviewing the second investigator's opinion on that complaint. I'm not going to review the earlier complaint about delay and turning down the claim in about August 2022 or the consequences of that. Mr S considers that the consequences included the costs of hire from early July to mid-October 2022 and his need to sell the unrepaired van in November 2022.

I'm going to focus on the settlement of £585.38. That was of course subject to deduction of the excess of £200.00 and I consider that deduction was in line with the policy terms and not unfair.

I've seen a garage estimate that includes a sub-total of £585.38 as the cost of a list of (new) replacement parts. On balance I accept that these were the parts that were missing from the van as a result of the acts or omissions of the mobile mechanic.

However, the criminal offence of theft involves not only the taking of goods but also other elements. These include an element of dishonesty and an intention permanently to deprive the owner.

The context was of a broken-down van requiring partial dismantling for investigation and repair. There isn't enough engineering evidence to show what parts were removed and set aside for re-installation and what parts were removed and discarded as waste.

Also the insolvency is likely to have prevented the mechanic from returning to re-install any parts that had been set aside.

I haven't seen enough evidence to show any element of dishonesty. So I'm not persuaded (even on the balance of probabilities) that the mechanic committed a theft.

It follows that the settlement of £585.38 is more than I would otherwise have found fair and reasonable. And I don't find it fair and reasonable to direct Advantage to pay Mr S any more in settlement of his theft claim.

### **My final decision**

For the reasons I've explained, my final decision is that I don't uphold this complaint. I don't direct Advantage Insurance Company Limited to do any more in response to this complaint.

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

Christopher Gilbert

**Ombudsman**