

The complaint

G, a property business, complains about Amtrust Europe Limited's handling of a claim made after an escape of water at a property G owns.

What happened

G has a holiday homes property owners insurance policy underwritten by Amtrust, which covers a property they own.

They made a claim in December 2022 after an escape of water caused significant damage to the property.

Amtrust said they believed the property was unoccupied at the relevant time. And they asked G to provide evidence that they'd complied with an endorsement on the policy.

This endorsement sets down conditions about what the policyholder is required to do when the property is unoccupied, in order to maintain cover.

G said the property hadn't been unoccupied under the terms of the policy. The policy had been taken out on 30 November 2022. The insured event occurred on 16 December 2022. The policy says properties are unoccupied if they're not lived in for 30 days or more consecutively.

G complained to Amtrust, saying that it was unreasonable to ask for proof of compliance with the unoccupied endorsement because the 30 consecutive days where the property wasn't lived in could only reasonably start on the date the contract of insurance was taken out.

The holiday home owners policy had been taken out to replace an unoccupied property policy G had taken out in June 2022.

Amtrust didn't uphold the complaint. They said the property hadn't in fact been lived in for more than 30 days. And the inception date of the policy did not in fact 're-start the clock' for the 30-day period for unoccupancy.

G weren't happy with this and brought their complaint to us. Our investigator looked into it and didn't think Amtrust had done anything wrong.

G disagreed and asked for a final decision from an ombudsman.

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.

It appears G switched policies in November 2022 – moving from an unoccupied property policy to the holiday home owners policy – because they had let out the property to another company. That company appears to have been planning to rent out the property through Airbnb.

Amtrust's loss adjusters believe the property may not have been lived in at any point between that lease agreement commencing and the time of the escape of water.

It's not clear whether G dispute that. They appear to have argued, at least at one point, that the other company told them they would be renting the property out soon after the lease agreement commenced.

That's really a matter between G and the other company. Amtrust were told by their loss adjusters that there was evidence to suggest the property hadn't been lived in after the lease agreement took effect. Up to the end of November 2022, Amtrust know the property was unoccupied because that's the policy G had with them.

It's not unreasonable then for Amtrust, in response to this claim, to ask G to provide evidence that the property had been lived in *or* that they'd complied with the unoccupied endorsement set out in the policy schedule.

It's very relevant to this complaint that the endorsement required (amongst other things) the water in the property to be turned off at the mains if the property is unoccupied (unless the heating was maintained at a steady level).

There's a reason for that endorsement being in place – as this case shows. It's not unreasonable or unfair – and it sets out what risk the insurer is willing to take on when agreeing to provide cover.

I don't accept G's argument that the inception date of the policy in effect re-starts the clock on the 30 days for which the property has to be not lived in for the unoccupied endorsement to kick in.

Nothing in the policy wording suggests that. The policy simply says the policyholder must comply with the endorsement if the property isn't lived in for 30 days or more. It doesn't put any limitation on when that 30 days can start.

It also makes no sense at all – in terms of the risk appetite of the insurer – to suggest the 30 days can only start when the policy is inceptioned. The endorsement is there because there is a greater risk of loss or damage if the property is unoccupied. That risk isn't made any smaller by the fact that the policy is inceptioned on a date in the middle of the consecutive run of 30 days when the property's not lived in.

So, as things stand, I can't reasonably say that Amtrust have acted unfairly in the way they've handled this claim or by asking G to provide evidence about the occupancy of the property or their compliance with the endorsement.

If G can provide evidence that the property was lived in at some point in the 30 days before the escape of water on 16 December 2022 or that they complied with the requirements of the policy endorsement, then I'm sure Amtrust will resume their consideration of the claim.

My final decision

For the reasons set out above, I don't uphold G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 3 May 2024.

Neil Marshall

Ombudsman