

The complaint

Miss and Mrs R complain about the amount AXIS Speciality Europe SE has offered to settle a claim they made on their landlord insurance policy.

Reference to Miss R or AXIS includes respective agents and representatives.

What happened

As the circumstances of this complaint aren't in dispute, I'll summarise what's happened.

- Miss R got in touch with AXIS when a boundary wall at her property collapsed during bad weather. She asked it to pay for the cost of removing the old wall and building a new wall, which came to around £5,600, plus the cost of temporary fencing.
- AXIS noted Miss R's contractor said the wall collapsed because of the way it was built and the weather. It also noted windspeeds recorded at the relevant time were up to 31mph and said this was less than the commonly accepted threshold of 55mph for storm. So, AXIS didn't think there was evidence to support a storm claim. Despite that, it offered to pay 50% toward the cost of a new wall, less the £250 policy excess, which came to around £1,600. It also offered to consider the fencing costs, if Miss R provided more information about them.
- Miss R didn't think this was fair as it left her with a significant shortfall. And she noted neighbours' claims for similar problems had been paid in full by other insurers.
- Our investigator thought AXIS had treated Miss R fairly. She said there was no evidence to show there were storm conditions at the relevant time, so there was no obligation on AXIS under the insurance policy to accept the claim. She thought that meant AXIS' offer was fair in the circumstances.
- Miss R didn't agree and provided further comments. Our investigator wasn't persuaded to change her mind, so the complaint has been passed to me.

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 policy covers damage to the building, including walls, caused by storm. For a storm claim to be paid in full, I'd usually expect to see evidence of storm conditions at the relevant time – and evidence to show those storm conditions were likely the main cause of the damage.
- The policy doesn't define what is meant by 'storm'. So AXIS can't rely on the 55mph threshold it mentioned. In my view, 'storm' means weather of severe or unusual intensity, such as very strong winds.

- AXIS has provided weather data which says the maximum wind speed recorded at the relevant time was 31mph. That kind of wind is often described as 'breezy', so I'm not satisfied it's storm strength. Looking at weather data from a different provider, it says the maximum wind speed was 47mph. That weather station is more exposed than Miss R's property, so it may have recorded speeds greater than that experienced at her property. This may reach the level considered to be the usual minimum for storm strength, but only just.
- The only professional opinion I've seen about the cause of damage to the wall is from Miss R's contractor. They said the wall wasn't built well because it didn't have a middle pillar. Miss R seems to agree with this, as she said the wall was over 50 years old and had deteriorated since then. But she also said the bad weather experienced at the relevant time contributed to its collapse.
- The photos show almost the entire wall collapsed in a single section, without clear signs of being torn or forcibly detached from the supporting pillars or remaining brickwork. This is more indicative of being inadequately bonded, rather than being pushed by the impact of the wind.
- Overall, I'm not persuaded the evidence shows there were storm strength winds at the relevant time. And even if I took the evidence of 47mph winds at face value and in isolation, that kind of wind generally causes minor structural damage, such as a dislodged roof tile or chimney – it's unlikely to cause a wall to collapse. Also, it seems to be accepted that the wall wasn't built well and has deteriorated since, so I'm not persuaded the wind was the primary cause of the damage. At most, I think it was a contributory factor, but not a significant one.
- In these circumstances, I think it was fair for AXIS to make an offer towards the claim – but not to pay for it in full. I'm satisfied it's offer of around £1,600 amounted to a reasonable proportion of the cost of the wall, bearing in mind the wind wasn't a significant contributory factor.
- AXIS also offered to consider the temporary fencing costs upon receipt of further information from Miss R. I'm satisfied that's a reasonable approach, as it's entitled to understand what Miss R paid for before it agrees how much, if any, of it to pay for. I know Miss R says she has obligations to her tenants, and I don't disagree that's the case. But the policy doesn't necessarily cover any cost incurred by a landlord when fulfilling their obligations to a tenant – so AXIS has the right to consider the costs against the policy terms and what's fair and reasonable.
- Miss R has mentioned that other insurers have fully covered nearby walls damaged at a similar time. What other insurers may have chosen to do isn't relevant to this complaint. AXIS is entitled to consider the claim on its merits, based on its own policy. So I won't be taking into account the approach of other insurers here.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R and Mrs R to accept or reject my decision before 10 January 2024.

James Neville

Ombudsman