

The complaint

L, a company, complains about the decision by Allianz Insurance Plc to turn down a commercial property insurance claim.

L is represented by its director, Mr A.

What happened

L holds a commercial insurance policy with Allianz. A claim was made after a theft took place and items were stolen from a shipping container.

Allianz turned down the claim. It said L hadn't complied with a security condition which said the alarm must be maintained by a company approved by a UKAS accredited inspectorate. It also said the alarm system didn't extend to the shipping containers.

Unhappy with Allianz's decision, Mr A brought a complaint to this Service on L's behalf. Mr A said the property was alarmed, and the intruders triggered that alarm. So he didn't think it would have made any difference to the loss if the alarm system had been maintained by a company approved by a UKAS accredited inspectorate.

Our investigator didn't recommend the complaint be upheld. She thought that as the shipping containers weren't alarmed, L hadn't met the security condition. She was of the view that they had been alarmed, this may have prevented the theft from taking place.

Mr L didn't accept our investigator's findings, and so the matter has been passed to me for a decision.

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 relevant legislation I've taken into account when considering this complaint is the Insurance Act 2015 ('the Act').

The policy schedule says:

'...Minimum Level of Security applies to the Premises detailed below.

In addition the Insured must fit an intruder alarm system to the Premises.

1. The intruder alarm system must:

- a. be installed and maintained by a company that is inspected by a UKAS accredited inspectorate (NSI or SSAIB)*

...

2. The intruder alarm system must include:

- a. Detection circuits which cover the premises including contacts fitted to all external doors and internal trap protection (e.g movement sensors) to detect movement by intruders around the premises...*

It's not in dispute that the alarm wasn't installed or maintained by a company approved by a UKAS accredited inspectorate. So this requirement wasn't met.

The point that is in dispute, is whether the shipping containers would be considered part of the premises, and therefore should have had an alarm contact fitted to their external doors.

Allianz considers the alarm system ought to have extended to the shipping containers. However, Mr A argues that the reference to external doors only applies to the building(s). He says the containers are not buildings, but are movable equipment stored within the open yard.

'Premises' is defined in the policy as:

'The Buildings at the address or addresses shown in the Schedule, including their grounds, all within the boundaries for which the Insured are responsible and being, unless more specifically described in the Schedule, occupied solely by the Insured for the purpose of the Business.'

'Building/Buildings' are defined in the policy as:

'Buildings belonging to the Insured or for which they are responsible at the Premises being, unless more specifically described, built mainly of brick, stone, concrete or other non-combustible material, including:

- *walls, gates and fences*

and in so far as they are not otherwise insured and for which the Insured is responsible:

- *fixed glass and sanitaryware*
- *small outside buildings, annexes, gangways, conveniences and other small structures*
- *extensions communicating with the buildings*
- *roads, car parks, yards, paved areas, pavements and footpaths*
- *security cameras and lights*
- *fixed fuel oil tanks and fixed diesel tanks, piping, ducting, cables, wires and associated control gears and accessories and extending to the public mains'*

I agree with our investigator that the shipping containers would be considered part of the buildings, as defined by the policy. They are made of non-combustible material, and it seems to me they'd fall under the description of '*small outside buildings, annexes, gangways, conveniences and other small structures*'.

I don't agree with Mr A that a structure would need to have fixed foundations in order to be considered a building. I note the theft cover under the policy specifically refers to (and excludes loss from) buildings not on permanent foundations.

So I find that the external doors to the shipping containers should have been alarmed. I therefore accept that L didn't meet the second requirement either.

The next point for me to consider is whether it was reasonable for Allianz to turn down the claim because L didn't meet the two security requirements.

The Act says the insurer cannot rely on non-compliance of a term to escape liability unless the non-compliance could potentially have had some bearing on the risk of the loss which actually occurred.

Mr A explains that the thieves cut through security gates and fencing, and then cut open the locks of the shipping container. I understand the thieves were able to steal around £50,000 worth of stock from the shipping container. It seems the alarm was triggered when the thieves attempted to enter the main building. The alarm alerted the tenant who confronted the thieves, but they threatened him with a weapon and then left in a van.

As the intruder alarm in place was triggered and this alerted the tenant, I agree with Mr A that it likely wouldn't have made a difference to the matter if the alarm had been installed and maintained by a company approved by a UKAS accredited inspectorate.

However, given that the loss which occurred from the shipping container was a result of theft, I don't think Mr A has shown that not complying with the requirement to fit an alarm to the external door of the shipping container could not have increased the risk of the loss.

I recognise my decision will disappoint Mr A, but I think it was reasonable for Allianz to turn down the claim.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask L to accept or reject my decision before 18 December 2023.

Chantelle Hurn-Ryan
Ombudsman