

## **The complaint**

Mr A has complained that Zurich Insurance PLC has failed to settle a claim for loss of rent under a commercial buildings insurance policy.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. In summary the leasehold property Mr A rented out was damaged by an escape of water from the flat above in February 2022. A claim for damage was settled and Mr A then submitted a claim for loss of rent in the sum of £15,130. Zurich hasn't settled that claim. The policyholder is a borough council.

Our investigator ultimately didn't recommend that the complaint be upheld. Mr A appealed.

## **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.

Firstly though I'm aware I've summarised the background to this complaint. No discourtesy is intended by this. Instead, I've focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I've fully reviewed the file and have read and considered everything that Mr A has provided. Having done so, and although I recognise that Mr A will be disappointed by my decision, I agree with the conclusion reached by our investigator for the following reasons:

- It is not in dispute that there was an escape of water and the RCD (electric) unit was replaced. What is in issue here is the period of time that the flat was uninhabitable and the rent refunds made. It is for Mr A to show that his claim is valid. The claims procedure is set out in the policy document:

*After any accident, injury, loss, or damage you or your legal personal representative must:*

*a) notify us (or the freeholder on our behalf) in writing with full particulars and evidence as soon as possible after the occurrence*

*d) give us all the information and assistance we may require*

- Mr A provided copies of the short-term tenancy agreements he had with the three tenants in the property at the time of the escape of water. These don't contain contact details. Mr A says that he was unable to supply the details because the first time he was asked for them was over a year after the water damage. I understand that his computer had cleared all contact details, it does this regularly after one year. I note that he was able to evidence that deposits were paid, but this doesn't link the deposit to an address. I don't find it unreasonable for Zurich to ask for tenants' details

in order to validate the claim.

- Mr A says that Zurich has the evidence it needs to support the loss of rent. He told Zurich that cash refunds were given to the vacating tenants by his brother. However, Mr A hasn't given Zurich his brother's contact details. I haven't disregarded the tenancy surrender documents Mr A sent to Zurich showing that the tenants had received a refund. But I don't find it unreasonable for Zurich to require further details - especially in the case of short stays where there is limited corroborating evidence of the tenancy.
- Mr A went ahead with the repairs without authorisation from Zurich, contrary to his policy terms. I note that Mr A says he did try to contact Zurich, but the number wasn't working. So it was some months later the loss was reported. I understand that he was speaking to the Council – who initially told him to hold off repairs, and only confirmed that the repairs could go ahead in June 2022. There is no doubt that there was an escape of water – this has been accepted by Zurich and the earlier claim settled. But as Zurich hadn't authorised the repairs, it wasn't in a position to determine for itself whether the property was uninhabitable and for what period. I find it was reasonable to make enquiries to determine this issue.
- Zurich's attempt to contact the electrician who replaced the unit proved fruitless. So it wasn't able to determine whether the unit was beyond repair. Although Mr A claims rent until 11 August 2022, Zurich was not able to say whether the flat was inhabitable from an earlier date. Mr A has now submitted to this Service an email from his contractor containing further information dated 23 September 2023 in answer to some of the queries raised by Zurich. He confirms that until the works were completed the property was uninhabitable. I don't find that Zurich treated Mr A unreasonably on the evidence it had to hand. But as the matter is not concluded Mr A can submit this email from the contractor to Zurich to assess.
- I understand Mr A's strength of feeling in this matter. He feels that he is the injured party and has spent a lot of time supplying all the documents needed. He feels too that Zurich's agent made mis-statements and gave incorrect information in order to influence the claims decision. I haven't disregarded his comments in that regard and note how stressful the situation is for him. But on the basis of the evidence supplied, I don't find that Zurich treated Mr A unfairly or unreasonably in requiring more evidence to substantiate his claim for loss of rent. Of course, and as indicated above, it is open to Mr A to provide further evidence to Zurich for its consideration.
- For clarity I would advise that this service doesn't regulate insurers, that is the function of the Financial Conduct Authority.

### **My final decision**

For the reasons given above my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 23 January 2024.

Lindsey Woloski  
**Ombudsman**