

The complaint

Mrs L complains that AXA Insurance UK Plc wrongly led her to believe a claim under her landlord insurance policy would be covered and she could go ahead with repairs.

Any reference to AXA includes the actions of its agents.

Mrs L is represented by Mr L.

What happened

Mrs L held landlord insurance cover with AXA for a property she rented out. In early 2023, she discovered that her tenant had caused damage to the property whilst cultivating cannabis. She made a claim, and AXA arranged for its agent (that I'll call 'B') to carry out an inspection.

After B attended the property, Mrs L paid for clearance costs and some repairs to the property.

AXA later advised Mrs L that the majority of the damage wasn't covered, as the policy excluded damage caused by or arising from illegal activities. However, it accepted that damage to the back door wasn't linked to illegal activities. It therefore dealt with this aspect of the claim.

Mr L accepted AXA's claims decision, but complained on Mrs L's behalf that B had told them to go ahead with the repairs. He said he would have arranged the clearance himself, and would have spent less on the repairs if he had known the claim might not be covered.

AXA accepted that once B had visited the property, the claim should have been turned down. It also noted there had been a delay in its handling of the claim. It offered Mrs L £100 compensation for this. However, AXA said the costs Mrs L had incurred for the repairs and clearance were related to illegal activities and therefore weren't covered. Unhappy with this, Mr L brought a complaint to the Financial Ombudsman Service on Mrs L's behalf.

Our investigator didn't recommend the complaint be upheld. She didn't think B had led Mrs L to believe that she should get the repairs done before AXA had approved the claim, so she concluded that AXA hadn't done anything wrong.

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.

Mr L's recollections from B's visit are that various costs were agreed, and that B had said AXA was happy for him to go ahead and arrange the clearance and the repairs.

I've listened to the recordings made by B during the visit to the property. B outlined the affected areas throughout the property, and some estimated repair costs.

In one recording, B said they'd explained to the customer (who was present) that as they had non-delegated authority, the claim had been referred back to the insurer for their approval. At the end of that recording, it seems as though Mr L answers B's staff member. However, Mr L says he doesn't recognise the voice on this recording. He denies B's staff member telling him the claim would need AXA's approval.

In cases such as this, where evidence is contradictory, I need to reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The recordings don't support Mr L's recollections that he was told he should go ahead with the repairs, and I haven't seen any other evidence to support that he was told this. I don't have any reason to doubt that the recordings are genuine, though I appreciate Mr L doesn't recall the conversation. I'm satisfied from this evidence that on balance, Mr L was aware the claim needed to be approved by AXA.

I therefore don't require AXA to pay towards the costs Mrs L incurred before a claims decision was made.

AXA accepts there were some delays in its handling of the claim. Ideally, AXA would have given Mrs L its claims decision sooner than it did, as I note this took a month. AXA offered Mrs L £100 compensation for the delays, and I think this was reasonable in the circumstances.

My final decision

AXA Insurance UK Plc had made an offer to pay £100 to recognise there were delays and I think this offer is fair in all the circumstances.

So my decision is that AXA should pay £100.

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

Chantelle Hurn-Ryan
Ombudsman