

## The complaint

Ms M complains about Ageas Insurance Limited's (Ageas) decision not to pay a claim made under a commercial insurance property.

## What happened

Ms M owns a property which she rents out. She says a letting agent took out a Rent Guarantee Plus Policy for her benefit, with the letting agent being the policy holder. In April 2022, Ms M says the tenants left the property and withheld one month's rent.

Ms M made a claim under the policy. She says Ageas told her she needed to provide a copy of a report from the Tenancy Deposit Scheme to support her claim. This was provided and it showed Ms M had been looking to claim £2,531.40 from her tenants to cover the cost of cleaning and damages. The scheme noted the total deposit held was £2,250. Ms M was awarded £470 and the balance of £1,780 was awarded to the tenants. Ageas considered this information and paid Ms M £170. It said this was the difference between the rental arrears of £1,950 and the £1,780 awarded to the tenants by the Tenancy Deposit Scheme.

Unhappy with this response, Ms M complained. However, Ageas didn't change its decision on the claims outcome, saying in line with the policy terms. Ms M referred her complaint to us. It was considered by one of our investigators who considered Ageas had handled the claim in line with the policy terms. He didn't require Ageas to do anything more. As Ms M didn't agree, this matter 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.

In the first instance, while Ms M says the policy was mis-sold to her and misrepresented to her, I need to be clear this isn't something we can help her with. This is because Ms M says the policy was taken out by the letting agent, and they're the policyholder with Ms M noted as having an interest in the policy. Our role is to resolve disputes between consumers and financial businesses – not letting agents.

This claim between the tenants and Ms M has been adjudicated by a third party – the Tenancy Deposit Scheme. I can't consider any of the issues that have already been decided by another arbitration scheme. All I'm able to consider here is if Ageas has acted fairly in settling the claim in line with the policy terms.

Ageas says Ms M ought to have used the Tenancy Deposit Scheme to reclaim the unpaid rental income she was owed. And, because she didn't do so, Ageas has only paid her the balance between the amount awarded to the tenants and the monthly rent. In taking this action, Ageas is relying on the following policy term:

***"Upon gaining Vacant Possession of the Property in order to calculate any final Monthly Benefit due, You or the Landlord must disclose by way of proper receipted***

*invoices, or details of the adjudication of a Tenancy Deposit scheme.... regarding the use of all or part of the **Deposit** that has been used specifically to repair damage caused by the **Tenant** beyond usual wear and tear. Any remaining balance must be applied to unpaid **Rent**.”*

Ageas has provided an email showing Ms M could have submitted the outstanding rent as part of her claim to the Tenancy Deposit Scheme. Had Ms M made a claim for unpaid rent, Ageas says it is likely the Tenancy Deposit Scheme would have deducted the rental arrears from the £1,780 remaining from the deposit after awarding Ms M some additional costs from the deposit. And this would have meant Ageas would only have been required to pay Ms M £170.

Ms M says she was told by the Tenancy Deposit Scheme that claiming for loss of rent wouldn't be advisable because she had insurance in place to cover this. I appreciate this is Ms M's recollection of advice she says she was given. In the face of conflicting information – as is the case here – I need to decide what of the available evidence I find more persuasive. Here, I find the email from the Tenancy Deposit Scheme (forwarded to Ms M on 16 June 2022) to be most persuasive. It says:

*“What documents should I submit?*

- A statement showing rent due and received and any periods for which rent was not paid if your claim includes unpaid rent)...”*

I can't hold Ageas responsible for any advice Ms M says she was given by a third party. It's clear Ms M's claim to the Tenancy Deposit Scheme didn't include the loss of rent. But it was something that she could have asked the Tenancy Deposit Scheme to consider.

However, as Ms M didn't ask for the rental arrears to be included as part of her claim, the deposit was awarded in part to her (to cover some of her claim for damages) and the balance to the tenants. Ageas said the policy only required it to pay the balance between the amount returned to the tenants and the total rental arrears. And given there was an opportunity for Ms M to have tried to have claimed the rental arrears through the Tenancy Deposit Scheme initially, but she didn't do so, its position has been prejudiced.

I don't consider that the overall conclusion Ageas has reached is unreasonable. The policy terms say the remaining balance of the deposit should be used to repay unpaid rent, but Ms M didn't evidence this claim to the Tenancy Deposit Scheme.

I've reached the same conclusion as our investigator and for essentially the same reasons. It seems, from the evidence provided, that Ms M could have had the claim for rent arrears considered by the Tenancy Deposit Scheme, but she decided not to. Given the information available to me, for the reasons set out in this decision, I don't consider that Ageas acted unfairly by limiting the payment under the policy to £170. I'm therefore not going to require it to increase the payment for the remaining rental arrears to Ms M.

## **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 Ms M to accept or reject my decision before 9 January 2024.

Emma Hawkins  
**Ombudsman**