

Lying about your Credit history could be a costly **MISTAKE**



Can misrepresenting your credit history result in the cancellation of a short-term insurance policy? And would an insurer be within its rights to decline a claim on the basis of such misrepresentation? In the August issue of the Ombudsman's Briefcase, the Ombudsman for Short-term Insurance publishes an interesting case study that answers these questions.

Complete disclosure is the best policy

Prospective clients are asked a number of questions when taking out a short-term insurance policy. The insurer wants information about the insured's age, address and 'no claims' bonus, details of the security arrangements for the vehicle (including anti-theft devices, tracking devices and where the vehicle will be parked at night) and information about the primary use of the vehicle. And we already know that misrepresenting any of these facts will lead to problems at claims stage. But there is other information the insurer will ask for at policy inception.

In today's case the insurance company asked the insured whether the regular driver of the vehicle "had ever been blacklisted, liquidated or sequestered." The insured's response to this question was, "not that I'm aware of." When the insured submitted a claim for damage to the motor vehicle (some three months later) the insurer determined that the insured had actually been blacklisted for a number of unpaid accounts prior to inception of the policy.

The claim was rejected on the basis of non-disclosure! Does this omission really constitute non-disclosure? The insured felt wronged and laid a complaint against her insurance company with the Ombudsman for Short Term Insurance.

Should the credit check occur pre-policy?

The complainant's argument in this case is compelling. She felt that she hadn't intentionally withheld information from the insurer and expressed the opinion that the insurer's credit check could have been performed prior to policy inception rather than at claims stage. She also alleged that the insurer was unable (or not prepared) to provide her with a copy of the voice recording of the policy sale. A summary of her complaint: "The complainant was of the view that her insurer was not able to prove their allegation, should have conducted the credit check prior to granting the policy cover and by failing to do so, should therefore be made to entertain her claim in full!"

Another twist in the argument - which we quite enjoyed - was that risk of non-payment due to a poor credit history generally lies with the finance house. The insured argued that since the finance house had no trouble granting the loan (after completing a credit check), why would the insurer have a problem carrying her insurance? Once the case reached the Ombudsman the insurer was able to produce a voice recording of the sale. The insurer provided the complainant's policy schedule, a copy of the credit check conducted on the complainant and a copy of the voice recording of the sales conversation. "The insurer argued that had they been notified of the complainant's credit history during the sale of the policy they would not have granted the complainant cover and would therefore, not have exposed themselves to the moral risk that the complainant represented." From our perspective it's not that easy to understand how the client's credit history impacts on a short-term monthly paid policy. If she missed a payment she wouldn't be covered in any event. The Ombudsman frequently rules for complainants around vehicle and drivers licence issues. Would the Ombudsman side with the complainant in this case?

Insurer's decision upheld

The Ombudsman noted that the complainant's credit check indicated five separate instances of bad debts written off totalling R71 201 in the 18-months prior to the inception of the policy. "It was the view of the office of the Ombudsman that it was clear that the complainant could not have been unaware of her bad credit history under the circumstances and intentionally withheld such information from the insurer during the sales conversation," said the Ombudsman.

On advice from the insurer that they would not have accepted this risk if they had known about the insured's debt history the Ombudsman rejected the claim and accepted the insurer's decision to reject the claim and cancel the policy.

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