



Domestic Gradual Damage Claims

We often have clients lodging claims for what insurers refer to as “gradual deterioration”. This is usually damage caused by water that over a period of time causes rot and only becomes obvious when the damage has reached a stage where repairs are necessary.

Most insurers will cover you for the cost of repairing your home if it suffers hidden gradual damage caused by water which leaks or overflows from any internal water system. Depending on the insurer, the limit under this section of the policy is between \$2,000 and \$4,000. These limits include the cost of searching for the source of the problem so long as they are reasonably incurred.

Unfortunately what is not generally covered are gradual damage claims that arise from faulty building construction, (leaky homes), damage as a result of poor building maintenance, and damage caused to the sub-floor of showers where poor sealing may cause water to penetrate the gap between the shower tray and the wall causing damage over an extended period of time.

If you have suffered such damage talk to a Roughton Nelson broker who will be able to advise you.

New District Court Rules

The District Court has jurisdiction for claims up to \$200,000. As from 1 November 2009, new rules for civil cases came into effect aimed at simplifying the legal process and encouraging settlement between the parties at an early stage. Whilst this is undoubtedly commendable, particularly with debt recovery situations, the new process and rules are not well suited to the type of litigation routinely covered by liability policies.

The District Courts of New Zealand

NGĀ KŌTI Ā ROHĒ



The new rules do not require formal inspection and discovery of documents, and can provide for judgement by default if tight deadlines for serving defendants response are not met, and has a bias against a full defended hearing.

There are a number of issues that relate from these new rules, but because of these and the strict timelines, it is more important than ever before that prompt notification is given immediately you may receive notification of a claim.

There remains a window of only 5 working days in which a defence lawyer can automatically have a claim transferred to the High Court, and with these tight deadlines, if an insured does not notify immediately when a notice of claim is given, then the matter may remain in the District Court for the want of such an application.

This may then seriously hamper the defence of the claim, but more importantly may also prove to be prejudicial to an insured's right to indemnity.



Fires in Fume Extraction Systems

Fires in restaurants, cafes and takeaway bars are all too common. For the year ended June 2007, NZ Fire Service statistics show there were some 158 commercial property fires in restaurants cafes and diners, 15 fires in sports clubs and 60 fires in takeaway bars, fish and chip shops and fast food establishments.

Most of these types of establishments have a kitchen flume extraction system or exhaust hood directly over the cooking ranges. It is these poorly maintained systems that are the main cause of fires. The fire is usually due to either not cleaning the filters or ducts often enough, or inadequate rate of fume extraction.

Insurers almost without exception now survey premises that have such equipment and any found deficient are virtually uninsurable. Insurers also often impose a warranty requiring the regular cleaning of systems, and if this is not undertaken, then in the event of a claim, this could prove to be prejudicial to the insured's ability to claim.

Educating the Insurance Brokers

With new financial services legislation expected to be in full force before the end of this year, the Insurance Brokers Association of New Zealand, (IBANZ), has started an "insurance college" aimed at educating young insurance professionals, and bringing older industry personnel up to speed with current trends and developments.



Whilst it has been required for some time that membership of IBANZ requires 24 hours annually of continuing professional development, the college will raise professionalism to a higher level that will be to the direct benefit of clients.

The new legislation now requires for all "registered" brokers to be a member of a complaints resolution body who will hear, (and rule), on complaints against brokers. The cost of bringing a complaint will be free to the public and will be directly paid for by brokers by way of annual fees and levies.

Theft from Vehicles

Perhaps due to the fine summer weather, theft from unattended vehicles is on the rise. A problem we are experiencing is when in addition to personal effects such as sunglasses and clothing that may be stolen from the vehicle; perpetrators often take portable GPS units, such as Navman and Tom Tom.



Sunglasses and clothing is clearly a claim under a personal effects/contents type policy; however what is not so clear is how insurers treat GPS units. Generally, where such unit is designed to be used away from a vehicle, (such as in the bush), insurers will treat these as falling under a contents policy. However

when the unit is designed for in car use, then the unit is treated as a vehicle accessory and a claim must be made under the vehicle policy.



Theft from Vehicles (cont.)

The problem here is that particularly where the vehicle is insured with a different insurer to that holding the contents policy, then two excess' can apply. Fortunately in most cases when both vehicle and contents are with the one insurer, then that insurer may apply only the one excess, notwithstanding a claim is being made under two policies. The downside is that insurers will generally apply the higher of the policy excess', and the final settlement may not be as generous as the insured may have expected. Talk to your Roughton Nelson broker if you have any questions as to how you may be treated should you have such a claim.



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