

## **Before the Arbiter for Financial Services**

**Case ASF 057/2021**

**ZB (the Complainant)**

**vs**

**Building Block Insurance PCC Ltd.**

**(C 63128)**

**(the Service Provider/Insurer)**

### **Sitting of the 13 September 2021**

**The Arbiter,**

**Having seen the complaint whereby the Complainant, in summary and in essence, submitted that:**

She was unfairly treated when her claim for unemployment benefit was rejected through a lengthy and unfair process.

*'The prolonged and punitive process had a bad effect' on her 'health and mental well-being'.*

The insurer has stated that her Claim Form was incorrect and that it could not be changed but she insists that her Claim Form was correct.

She feels that she is being penalised for not producing a contract of employment which document does not exist because her employers did not compose a written contract of employment when they engaged her.

The Service Provider was supposed to cover her through her insurance policy to have peace of mind in case of her unemployment, redundancy, illness or accident.

She further states that she has been paying the policy since April 2015 and this is the only claim she made. As a matter of fact, she states that she had paid over £10,000 in premiums.

The Service Provider has failed in its duty of care by allowing the process to prolong, thereby, affecting her health.

She is asking compensation for unemployment which happened *'at no fault of my own'*.

The amount of compensation as indicated in the Complaint Form is not clear and being asked by the Arbiter how she had worked<sup>1</sup> out the compensation, she replied that *'one policy afforded me £2,000 a cover and the other afforded me £500 a cover and I worked out the period that I was unemployed.'*

Moreover, she explained that *'the policy works on 30 days, so I worked out the number of days that I was unemployed; I divided the £2,500 by 30 days and I multiplied it by the period that I was unemployed'*.<sup>2</sup>

**Having seen the reply by the Service Provider which states:**

Building Block would like to address each of the three points raised by Mrs ZB to the Arbiter.

Prior to this complaint being formally escalated, three complaint outcomes have been issued by Building Block since September 2020. If any of these concerns have been addressed by Building Block already, Building Block will highlight where the Arbiter can find this information.

**Claim outcome appears unfair and unreasonable**

Mrs ZB has stated on her complaint form to the Arbiter that she has held this policy since April 2015. Building Block would like to clarify this information.

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<sup>1</sup> Pg. 377

<sup>2</sup> *Ibid.*

Mrs ZB held two policies where Building Block was the insurer:

- **BIU/06328A11640/SII – Best Ultra Income Protection Policy.** Building Block have been the insurer since August 2019 at a monthly premium of £29.64 for a 12-month term. This is outlined on the policy schedule provided by Mrs ZB by Best Insurance on 31 July 2019.
- **IBST/0533A3547/SIA – Best Simple Income Protection Policy.** Building Block have been the insurer since 01 June 2020 at a monthly premium of £119.02 for a 12-month term. This is outlined on the policy schedule provided to Mrs ZB by Best Insurance on 01 June 2020.

Mrs ZB's complaint had policy terms and schedules attached for other insurers. Building Block have attached the correct policy wording and schedules for each policy held to the Arbiter.

The claim submitted by Mrs ZB was for unemployment.

Included is a copy of the claim form submitted by Mrs ZB dated 05 July 2020, and the claim decision letter sent by the claim handlers, Trent Services, on 16 December 2020.

Building Block have addressed the claim decision on a complaint outcome issued 15 January 2021. Attached is a copy of this to the Arbiter. Please also refer to the claim decision letter for further information.

The policy exclusions Building Block are relying on are:

1. Page 20, Section Four of the policy terms, which states:

*General Policy Conditions & Exclusions*

- i) We will not pay claims where you are unwilling or unable to provide us with all necessary information that we may require in order to validate your claim and throughout the duration of your claim.*

2. Page 17, Section Three of the policy terms, which states:

### *What is not Covered*

*a) Claims where we have not received sufficient evidence to confirm your unemployment.*

### 3. Page 10

#### *IMPORTANT NOTICE FOR CUSTOMERS*

##### *Information You Give to Us*

*It is important that you answer all questions accurately and honestly as we will not accept any amendments to a claim form once we have received it.*

Mrs ZB has been unable to provide a copy of her employment contract with D&N Carlisle Ltd to support the claim presented regarding notice period, salary and the salary amendment regarding the pension scheme.

On the claim form submitted by Mrs ZB, she answered 'no' to the question: 'Are you currently undertaking any work either paid or unpaid'. Information provided by Mrs ZB and during the RPS interview has evidence to deem that work was being carried out for Adroit Partner Limited by Mrs ZB. Building Block has addressed this on the complaint outcome dated 15 January 2021.

#### **Trent Services**

Building Block have addressed the complaint regarding the service the claims handlers, Trent Services, provided on a complaint outcome issued 30 September 2020. This has been provided to the Arbiter.

Building Block appreciate Mrs ZB did provide some supporting documentation. It is for Building Block, as the insurer, to determine if further information is required to ensure the claim is valid and meets policy terms.

#### **The process**

RPS Associates act on behalf of Building Block to conduct an interview and to establish facts surrounding a claim. This information is then provided to Building Block for a claim decision to be made. Mrs ZB's claim was first referred to RPS Associates on 12 August 2020. The interview took place on 29 October 2020.

Attached is the transcript of this interview to the Arbiter – the document name is RPS 7143 Report 30-10-20. A video copy of this interview is also available if need be.

Building Block have addressed the complaint process and the concerns raised around RPS Associates on the complaint outcomes issued 30 September 2020 and 23 November 2020. These documents are also attached.

**Claim settlement:**

Building Block would like to make the Arbiter aware of the claim settlement figure under the policy if the Arbiter upholds the complaint.

The claim form submitted by Mrs ZB states 30 June 2020 as her last date of employment and 01 July 2020 as the date unemployment commenced. During the interview conducted with RPS, item number 38 on the transcript confirms that Mrs ZB was commencing a contract with Trouw Nutrition on 05 October 2020.

Mrs ZB stated on her claim form that she had a 3-month notice period from D&N Carlisle Ltd; however, no contract has been provided to confirm the notice period. During the RPS interview, Mrs ZB explained that she was never made aware of her employment termination notice because she never had a contract of employment and received nothing in writing.

If after the investigation, the Arbiter decides that Mrs ZBs' notice period is 3 months as per the declared claim form, under the policy terms, if this has been waived by D&N Carlisle Ltd, the Payment in Lieu of Notice period would still apply to the claim. Please refer to the claim decision letter. The 3-month notice period would end 30 September 2020. As per the policy schedule, under Policy Conditions, there is a waiting period of 30 days to be applied to claim. Mrs ZB commenced employment withing this waiting period meaning there would be no claim settlement due.

If the Arbiter decides that Mrs ZB's claim is covered from 01 July 2020, the amount to settle the claim under the agreement is £7,916.66.

Documents enclosed to the Arbiter:

- The policy schedule and terms for both policies held by Mrs ZB

- Claim Form submitted by Mrs ZB
- Transcript of RPS interview
- Claim Decision Letter – 16 December 2020
- Complaint Outcome – 30 September 2020
- Addendum Timeline – 30 September 2020
- Complaint Outcome – 23 November 2020
- Complaint Outcome – 15 January 2021

## **Having heard the parties**

## **Having seen all the documents of the case**

### **Considers**

The main point at issue is the refusal by the Service Provider to pay the Complainant for her unemployment under the terms of the policy. The Service Provider is refuting the claim on policy exclusions as follows:

1. General Policy Conditions and Exclusions, pg. 20, Section Four of the policy;
2. What is not covered, pg. 17 Section Three of the policy;
3. Important Notice for Customers, pg. 10 of the policy.

### *General Policy Conditions and Exclusions*

Section Four, pg. 20 states that:

- i) We will not pay claims where you are unwilling or unable to provide us with all the necessary information that we may require in order to validate your claim and throughout the duration of your claim.*

The Service Provider claims that it can invoke this ‘*general condition*’ because the Complainant ‘*has been unable to provide a copy of her employment contract with D&N Carlisle Ltd to support the claim regarding the notice period, salary and the salary amendment regarding the pension scheme.*’<sup>3</sup>

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<sup>3</sup> Pg. 221

The Arbiter agrees with the Service Provider that, ideally, the submission of the employment contract in certain situations could assist the Service Provider in the determination of the notice period, salary, etc. However, the production of the employment contract does not prove that a person is, in fact, unemployed. The scope of the policy is to compensate policyholders *inter alia* for unemployment. In the Arbiter's opinion, a letter declaring redundancy by the employer or the acceptance of unemployment by the appropriate government entity is a more solid proof of unemployment than the presentation of the employment contract.

In this case, if the Complainant was employed verbally and no written contract of employment was ever given to her, she is in the impossibility of producing it. Although the Arbiter fully understands that the Service Provider may need certain documents to process a claim, the exclusion itself refers to '*necessary information*' and, in the Arbiter's opinion, the most important and necessary information that the Service Provider needs in these cases is a solid proof of the unemployment of the claimant. Then it rests upon the claimant to produce enough evidence to the Service Provider to work out the quantum of compensation.

### **Whether the information supplied is sufficient to prove the claim**

The Complainant submitted a letter dated 15 July 2020, issued by her previous employer<sup>4</sup> which, among other things, specifically stated that the Complainant's employment was terminated on the 30 June 2020 due to '*redundancy*'.

It was further stated that the redundancy was not due to any disciplinary warnings against the Complainant. The notice period was that of three months and it was '*waived*'. The last payment date was that of 30 June 2020.

The Complainant was not offered any alternative employment because '*none was available*'.

The employer did not give any details about the employment contract and any reference to the contract was declared to be '*not applicable*'. The Complainant

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<sup>4</sup> Pgs. 13-14

was employed on a full-time basis and had a salary of £75,000 annually and worked for 37.5 hours weekly.

Moreover, the Complainant also produced evidence<sup>5</sup> that she was granted a 'jobseeker's allowance', thus, proving her unemployment from an official source. The Compromise Agreement<sup>6</sup> between the Complainant and her previous employer is also clear evidence that the Complainant was declared redundant by her employer.

The Arbiter is satisfied that the Complainant provided enough evidence to satisfy the General Policy Condition and Exclusion quoted above in this decision. The Complainant provided the Service Provider all the necessary information required to process the claim.

Therefore, the Arbiter does not consider the refusal of the claim on this basis to be fair, equitable and reasonable considering that the Complainant provided the Service Provider with other information proving her redundancy/unemployment.

This also applies to the second reason given by the Service Provider, namely, that '*we have not received sufficient evidence to confirm your unemployment.*'<sup>7</sup>

The Arbiter is, therefore, convinced that the Complainant was genuinely rendered redundant, and she had provided enough evidence to the Service Provider to consider her claim.

#### *The nature of the interview*

The Arbiter noted that the Complainant raised the issue of a prolonged and adversarial interview where she felt being aggrieved by the way questions were being asked and also felt a lack of respect to her situation.

The Arbiter recommends that the interviews that the Service Provider holds in these situations through their appointees be carried out in a respectful and reasonable manner.

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<sup>5</sup> Pg. 15

<sup>6</sup> Pg. 16 *et seq*

<sup>7</sup> Pg. 221

Policyholders who have just lost their job are normally passing through a difficult psychological situation where they expect empathy and understanding, especially, from their insurer to whom they had paid a premium to cover them for the eventuality that they become unemployed.

## **Decision**

**Considering all the facts of the case and the submissions by the parties, for all the reasons mentioned in this decision, the Arbiter considers that the complaint is fair, equitable and reasonable in the particular circumstances of this case.<sup>8</sup>**

## **Compensation**

During the oral hearing, the Complainant explained how she worked out the compensation she expects, as follows:

*'I worked out the compensation because the two policies together, one policy afforded me £2,000 a cover and the other afforded me £500 a cover and I worked out that the period of time that I was unemployed, that I should have been receiving that amount of income protection.*

*Asked by the Arbiter how I worked out the compensation I am asking for, I say that the policy works on 30 days, so I worked out the number of days that I was unemployed; I divided the £2,500 by 30 days and I multiplied it by the period that I was unemployed.'*

The Complainant was unemployed from the 1 July 2020 till the 5 October 2020, that is, for 95 days (considering that the policy covers 30 days for each month). On the basis of the Complainant's calculations, the amount due would be:  $£2,500/30 \times 95 = £7,916.66$ .

The Service Provider explained that if the Arbiter considers a three-month notice period and a waiting time of 30 days as per schedule, the Complainant would not be entitled to any compensation. However, the Service Provider alternatively stated that if the Arbiter considers that unemployment started on the 1 July 2020, the amount of compensation would be that of £7,916.66.

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<sup>8</sup> CAP. 555, Art. 19(3)(b)

The Arbiter notes that the policy provides for '*payment in lieu of notice*' which is defined as payment received by the policyholder from his/her employer in relation to the notice period or any other payment which relates to the notice period and includes a payment made under a settlement agreement.

The Arbiter examined the settlement agreement<sup>9</sup> where it results that the Complainant was not paid any notice money because she worked her notice period, and she was paid the salary and benefits accordingly. Therefore, no deductions are to be made from the above calculation.

Therefore, the amount due to the Complainant is £7,916.66.

**In accordance with Article 26(3)(c)(iv) of Chapter 555 of the Laws of Malta, the Arbiter is ordering Building Block Insurance PCC Ltd to pay the Complainant the sum of £7,916.66.**

**With legal interest at the rate of 8% *per annum* from the date of this decision until the date of effective payment.**

**The expenses of these proceedings are to be borne by the Service Provider.**

**Dr Reno Borg  
Arbiter for Financial Services**

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<sup>9</sup> Pgs. 16-29