



Property in Care, Custody or Control

- Claims Example



Profile

We insure a business that specialises in the powder-coating of metal and metal products.

Circumstances

Our insured was provided with a metal door by their customer with the request of having it powder-coated. When asked if there was any rubber or plastic in the door, the customer confirmed there were no such materials present. The insured then agreed to powder-coat the door which involved heating it in an industrial oven before applying the coating. Unbeknownst to the insured, the door actually did contain plastic, causing it to fall apart while being subjected to the 200-degree temperature of the oven.

Steps Taken

The customer provided our insured with the incorrect information and had it been known about the plastic in the door beforehand, our insured would not have offered the service. On that basis, the insured rightfully denied liability for the damage caused. In response to this, the customer filed a complaint with the Disputes Tribunal and our insured has since availed of their free hour of panel legal advice under the General Liability policy to assist them in preparation for their hearing.

Outcome

The claim is ongoing and our insured is awaiting their hearing date. However, DUAL has given the insured peace of mind by informing them that, if the Disputes Tribunal was to somehow deem them to be liable, the GL policy will respond to indemnify them for the damage incurred. Acceptance of the claim will be subject to the Property in Care, Custody or Control extension of the policy.

Key Takeaways

What this claim demonstrates is that, under the GL policy, there must be more than just property damage to trigger the policy; the Insured must also be legally liable. As the Insured is denying liability in this matter, it will be up to the Disputes Tribunal to determine liability. The policy then responds to the claim if the decision finds against the Insured. Here the Insured has also benefitted from the one hour of free Panel Counsel extension in the DUAL policy given that legal representation is not allowed in the Disputes Tribunal. They still have obtained some legal advice prior to their hearing on how best to present their arguments in defence. This extension is standard across all DUAL financial lines policies.