

Duty To Preserve Property

When a loss happens under an insurance policy, besides a need to get the damaged or lost property replaced or repaired, the property owner has a number of immediate responsibilities. Besides being obligated to report the loss to her insurance company and to cooperate with the insurer in handling the claim, she also has a responsibility to minimize the loss. This obligation holds for both personal and commercial loss situations.

Most insurance policies contain specific references to the duty to protect property from further harm. It may be called a Neglect provision or Preservation of Property; regardless, insurance companies rely on their policyholders to make a reasonable effort to reduce the level of loss under their policies.

Here's an example. Jenny's restaurant staff is in an uproar as a fire has been discovered in a small storage area located behind the main kitchen. It's after closing time, so Jenny only has to worry about clearing her employees out of the building and she orders everyone out and then arranges a roll call to be certain that everyone is safely accounted for. Then she makes a call to the Fire Department. All the while, she stops anyone from attempting to extinguish the fire. As it turns out, the fire spreads from the storage area and into the kitchen, severely damaging the heart of her restaurant. After investigating the loss, Jenny's insurer reduces her claim payment by \$10,000. The lower payment is justified by their finding that the loss would not have been nearly as severe if Jenny had allowed her staff to use the available fire extinguishers and had made the emergency call more quickly.

Policy wording with regard to the duty to protect property typically notifies the policyholder that he or she is expected to take any and all available measures to save or preserve property in the midst of a loss. This does leave room for interpretation, but the obligation does fall comfortably in between the extremes of using heroic measures and failing to make any effort to protect property. A failure to meet the obligation can result in either a partial or, in extreme instances, a total denial of coverage for a given loss.

Here's another example. The Laggleson family goes outside to check for any damage to their home after a violent windstorm. Besides a lot of scattered debris and an overturned patio set, they notice that a large limb from their Chinese Elm was blown onto their roof, creating a large gash. Several hours later a rainstorm comes through the area and the rain that pours through the hole damages expensive furniture stored in the attic as well as damages creates drywall damage to a bedroom ceiling and walls.

Scenario One – the initial damage occurred early on a Thursday morning with the storm occurring in the afternoon. The Lagglesons decided to go on to work and school and to handle things after returning home.

Scenario Two – the initial damage occurred on a Sunday morning, around 3 a.m. with the storm occurring around 6 a.m. The Lagglesons made several frantic calls but could not find anyone willing to come out to their home to deal with the open roof until Monday morning.

In both scenarios a failure to preserve the property after the initial loss created additional damage. However, it is only in the first scenario that the policyholder may suffer a consequence. In such cases, the loss circumstances have a significant bearing on how the insurer may respond and the policyholder's actions are critical. A reasonable effort under the circumstances may mean all the difference.

If you need more help in understanding your responsibility after a loss, be sure to discuss your concern with an insurance professional.

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