

## Misrepresentation Leaves Burgled Company Uninsured

Theft of goods by burglars from a secured cage in a warehouse may seem to be a straightforward matter as far as making an insurance claim goes, but a recent case shows otherwise.

The insured held goods including cigarettes and tobacco and had a standard commercial risks policy which covered losses due to theft. The high-value goods were stored in a cage inside the general warehouse on an upper floor.

When burglars stole them, the company claimed on its policy and the insurer refused to settle the claim.

Firstly, the insurer claimed that the company had failed to carry out the necessary maintenance of the security equipment and alarm which was required under the policy.

In the view of the court, such a clause was only breached if the insured became aware of defects and then failed to put them right or was reckless as to whether there were defects or not. Otherwise, the requirement that defects be rectified promptly would absolve the insurer from liability in almost all such cases.

However, the insurance policy also contained a stipulation that the theft of cigarettes and tobacco outside business hours would not be covered unless these were kept securely and on the ground floor. The stipulation had been lifted once the insurers had received assurances from the insured that necessary improvements to the security arrangements had been made. Here, however, the company had made a material misrepresentation. Accordingly, the insurers were entitled to rescind the variation to the original policy with the result that the theft was not insured.

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