Ankenævnet *for* Forsikring

Den 20. august 2025 blev i sag nr. 102724:

xxxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxx

mod

Købstædernes Forsikring GS
Strandgade 27A
1401 København K

afsagt

k e n d e l s e :

Forsikringstageren har bygningsforsikring. I klageskema af 5/12 2024 har klageren bl.a. anført:

> "I have concerns which have been checked that my roof has become unstable and a health hazard with regards to free asbestos fibres in the slid vand and environment across my property and my neighbours, this was backed by and assessment by … kommmune. My insurance company said they would send someone, so i assumed they did think it should be investigated, an even though i did ring before they sent someone to check the roof, they sent someone unqualified to assess asbestos hazards. They then told me on the telephone that they hadnt really taken it serious it was just to pacify me , they have tried i feel to make me cross so they can shut me down during discussion and i believe it is neglegent to deal with a potential health hazard in such a way
>
> **Hvad vil du konkret opnå hos selskabet?**
> A proper assessment of my property and to make good damage"

Selskabet har den 17/1 2025 til nævnet bl.a. redegjort for sagsforløbet og afgørelsen således:

> "Klager anmelder telefonisk den 18.09.2024, at hans tag har fået en rådskade og at han i den forbindelse har talt med … kommune. Da vi ikke helt kan gennemskue om der er tale om en dækningsberettiget skade, sender vi en håndværkstaksator ud til klagers adresse. Se udklip.
>
> Klager har fået renset hans tag for alger/mos og efter rensningen falder de her 'klumper af Alger' ned på fortovet(se udklip). Der er dog ikke sket en positivt nævnt skadesbegivenhed jf. klagers vilkår og da der ikke er tale om en dækningsberettiget skade, afviser vi herefter skaden. Klager oplyser desuden, at taget er lavet af asbest.
> …
> Da der ikke forligger en dækningsberettiget skadesårsag har vi ikke forholdt os til at taget indeholder asbest.

Jeg har som klageansvarlig også meddelt klager, at der mangler en skadesårsag, som vi positivt dækker jf. vores aftalegrundlag (vilkår+police) og der er ikke fremlagt anden dokumentation til sagen her i Ankenævnet - hvorfor vi fastholder vores afvisning. Se korrespondance under dokumenter."

Klageren har i kommentar af 11/3 2025 til nævnet bl.a. anført:

"Hello , I am not sure if it is relevant to inform you but my next door neighbour is now complaining of bringing grey material in her house that she says is from moss that is from my roof, she is threatening me with legal action. I am very very worried that a health issue can take so much time and feel that my insurance is now potentially playing with serious health issue"

Selskabet har i brev af 11/3 2025 til nævnet bl.a. anført:

"Da vi kun dækker 'uforudsete' forsikringsbegivenheder, som er nævnt positivt i dine vilkår, er almindelig oprydning efter algerens/tagrens - ikke en opgave som dækkes af din forsikring.

Jeg kan i øvrigt læse fra forskellige firmaer, der tilbyder tagrens, at de også tilbyder efterbehandlinger/oprydning efter algebehandlingen. Der må derfor være tale om et helt normalt forløb, hvor taget er algebehandlet og efter noget tid falder algerne/mosen ned fra taget og kan fejes op som alt andet nedfald fra naturen.

Du bør derfor ikke være i tvivl om denne opgave/oprydning, forventes at blive klaret af dig og som minimum kan du kontakte håndværkeren, der har udført algebehandlingen og hører nærmere.

Men oprydningen af algerne/mosen bliver under alle omstændigheder ikke et forsikringsanliggende, så længe der ikke er tale om en dækningsberettiget skadesårsag.

Da der generelt ikke er tilføjet noget yderligere dokumentation til brug i sagen og vi mener at sagen er belyst behørigt, mener vi godt at vi kan overdrage sagen til Ankenævnet og vi afventer herefter jeres kendelse."

Klageren har i kommentar1 af 10/4 2025 til nævnet bl.a. anført:

"Actually I just read that back and its full of mistakes as I am now so angry , and I wonder how come the insurance company is at liberty to write you when they choose and then im under a limited time press to come back to you with my response (regardless of the fact that you just close the case when they write the same rubbish to you that they wrote me. Nothing will get away from the fact that the company is sending out unqualified people to assess dangerous materials and YOU seem to think along with tem that that is OK it is not on"

Klageren har i kommentar2 af 10/4 2025 til nævnet bl.a. anført:

"I am stating now and categorically that this is diversion technique of the insurance firm. This was NEVER about the cleaning or the algea , they do know this I tried to state it lots of times but they ignore me. I believed that the algea shows that the roof is spreading DANGEROs asbestos fibres

> now, of course I cannot blame anyone without having evidence that it was the company that cleaned the roof that damaged it and of course if i did have that then i would be pursuing them for that cause. But i say I never said it wasss the cleaning that caused this problem , and I was more concerned about my own and my neighbours/environmental impact of having a roof that is spreading asbestoes. A roof of this age sould not be danergerous so something is potentially wrong. I belive that this was unbderstood from the beginning which is why the insurance company lied/pacified me by sending an unqualified assor to come and asses the danger potential. The algea is not a problem , free asbestos may well be life shortening and the insurenace is avoiding that pointing at the algea which is only an indicator of a potential problem which was neglegently handled by my insurance company"

Klageren har i kommentar af 24/4 2025 til nævnet bl.a. anført:

> "I am afraid I do not understand what there is to answer, the insurance company sent someone unqualified to carry out work and lied to me it must be traceable on the telephone records. I asked more than once was the person coming to check if the problem was dangerous was in fact qualified to do so they said yes. They then told me when i challenged after that they were not infact qualified, that they had only sent someone to 'pacify me' this is definetely not good enough. An insurance company must act honestly not lie and try to be helpful surely. Anyway as i say the conversations were all recorded , it is recorded that i was LIED to that is the bottom line they lied to me and treated me like i was stupid and i believe they have put me and my neighbours in potential danger not to mention the stress of finding out they have treated me babdly . Saying you will do something to pacify is not surely best practice"

Klageren har i kommentar af 1/5 2025 til nævnet bl.a. anført:

> "Hej and in response to svar 2
> 1) Unforseen surely must adhere to potentially dangerous life threatening situations
> 2a)As previously stated it is not cleaning up algea/moss that i was concerned about, it is the potential of my roof spreading dangerous material into the environment threatening mione and my neighbours health. NB it is infact wrong/false of the insurance company to suggest that this can though just be swept up. I have as I told the insurance company had …. Kommune to see this and they have told me to wear gloves , double bag this and take it to …, so that is infact inaccurate advice that could potentially be infact hazardous again to health I believe that unless … hass qualifications to give advise he should not be doing so regarding the safe handling of hazardous material.
> 2b)I still believe that concentrating on the algea (it is a symptom not the diagnosis) is a diversion, and not at all what I initially was concerned about, that being the nature of the roofs stucture and again if it is potentially adverse to human health by way of free giving asbestos now.
> 3) In the insurance companies response from … not once does he refeference the further complaint of having sent an unqualified person to assess a lifethreatening potential problem , that i believe was neglegent and incredible that they just choose in their response to ingnore this complaint. Again it was all recorded and I also belive that having sent someone (whether to pacify me or what) the insurance company, showed a duty of care and tried to decieve me with inaccurate information from an unqualified source"

Klageren har i kommentar af 7/5 2025 til nævnet bl.a. anført:

> "I have sent two new pictures, as both of my neighbours have commentet that they are not happy with my roof looking like that now. I think anyone can see that the structure of the surface is altered for whatever reason that is beside the point now. I can see fibres bare in the close up and I am becoming exceedingly worried that his is a health hazard to me my family and neighbours and no one seems to be bothered . I cannot believe I cannot use my garden again this summer for not knowing wether this is safe or not ; i directly put this down to the mishandling and lack of care given by my insurance company…"

Klageren har i kommentar af 10/5 2025 til nævnet bl.a. anført:

> "with regard to the following advice ,
> Criminal negligence (sometimes called culpable negligence) refers to a defendant who acts in disregard of a serious risk of harm that a reasonable person in the same situation would have perceived. Another common definition includes an act that amounts to a gross deviation from the general standard of care.
>
> I am really disgusted that this company is allowed to prolong something that is obviously negligent at least in the following two points (I am considering reporting this soon, as a criminal case)
> 1) … is not qualified to assess hazardous material and yet is doing this , and this is infact contary to expert advice which i had sought prior to my contact with my insurance company
> 2) My insurance company said they would investigate the potential hazard yet sent someone who again was not qualified , even though I expressly contacted my insurance company to ask that the person was suitably qualified (all on recorded phone convesations) both are clearly examples of negligence further I have been left…"

Klageren har i kommentar1 af 17/6 2025 til nævnet bl.a. anført:

> "I belive that this is what the insurence company has requested , could you please confirm that it is correct . Also as I have said before i have not said that the roof company damaged my roof, just that it was obvious after it was cleaned that it looked very different on the surface . I have always stated that , and still i feel very unsafe in my garden ....great , meanwhile i do that you for your continued support thank you"

Klageren har i kommentar2 af 17/6 2025 til nævnet bl.a. anført:

> "otherwsie , the insurence company as they well know sent an unqualified person to inspect the roof and they have details of this , previous to this it was not a tradesperson that can out to look but someone from … kommune who i approached myself not for a report but for advise and i was told to handlt the material falling off as hazardous waste which prompted me to contact my insurence. the person who i had contact with and initially came to look for me for advive was…"

Nævnet har fået forelagt bilag fra sagen, hvoraf nogle gengives nedenfor. Af police af 1/9 2021 fremgår bl.a.:

> "**Parcelhusforsikring**
> …
> **Opførelsesår**
> 1968
> …
> **Bygningskonstruktion**
> Hård bygning
> **Tagtype**
> Hårdt tag
> …
> **Dækker**
> Brand
> Svamp, råd og insekt
> Skjulte rør
> Brud på stikledning
> Anden skade og tyveri
> Husejeransvar
> Retshjælp
> Udvidet vanddækning"

Af faktura af 28/8 2023 fra tagrensfirma fremgår bl.a.:

> "Algebehandling udført den 27-08-2023
> …
> Total 1.500,00"

Af besigtigelsesrapport af 24/9 2024 fra selskabets netværkshåndværker fremgår bl.a.:

> "Ft fremviser et tag fra 1987. Taget er sandsynligvis med asbest. Ft har fået renset taget to gange for mos. Han er bekymret for at der sidder asbest på undersiden af mosflager samt at grunden er forurenet. Han er i dialog med kommunen. Taget er ikke funktionsnedsat. Jeg ser forholdet som afvis da jeg ikke ser skade/ hul på taget. Det er forurening som bekymrer ham."

Af forsikringsbetingelserne fremgår bl.a.:

> "**2. Parcelhusforsikring**
> …
> Forsikringen dækker direkte skade sket i forsikringstiden som følge af brand m.v. … Forsikringen dækker direkte skade sket i forsikringstiden som følge af svamp, råd og insekt … Forsikringen dækker direkte skade sket i forsikringstiden som følge af skjulte rør - utætheder og fejl … Forsikringen dækker direkte skade sket i forsikringstiden som følge af brud på stikledninger … Forsikringen dækker direkte skade sket i forsikringstiden som følge af anden skade og tyveri … Forsikringen dækker direkte skade sket i forsikringstiden som følge af udvidet vanddækning"
> …

2.3.3 Hvad er *ikke* dækket
…
2.3.3.9 Forurening
Ansvar for skade opstået i forbindelse med forurening af luft, jord eller vand samt derved forvoldt skade på ting, medmindre skaden er opstået uventet, utilsigtet og ved et pludseligt uheld, og de sikrede har overholdt gældende offentlige forskrifter.
…
3. Indboforsikring
…
3.4.3 Hvad er *ikke* dækket
…
3.4.3.11 Forurening
Ansvar for skade opstået i forbindelse med forurening af luft, jord eller vand samt derved forvoldt skade på ting, medmindre skaden er opstået uventet, utilsigtet og ved et pludseligt uheld, og de sikrede har overholdt gældende offentlige forskrifter."

Nævnet har fået forelagt fotografier.

<u>Nævnet udtaler:</u>

Klageren anmeldte den 18/9 2024, at taget havde fået en rådskade. Selskabet har afvist dækning med henvisning til, at klageren ikke har bevist, at der foreligger en dækningsberettiget skadesårsag. Klageren ønsker "A proper assessment of my property and to make good damage".

Klageren har anført, at "I have concerns which have been checked that my roof has become unstable and a health hazard with regards to free asbestos fibres in the slid vand and environment across my property and my neighbours, this was backed by and assessment by [kommune]. My insurance company said they would send someone, so i assumed they did think it should be investigated, an even though i did ring before they sent someone to check the roof, they sent someone unqualified to assess asbestos hazards. They then told me on the telephone that they hadnt really taken it serious it was just to pacify me, they have tried i feel to make me cross so they can shut me down during discussion and i believe it is neglegent to deal with a potential health hazard in such a way". Klageren har også anført, at "I have sent two new pictures, as both of my neighbours have commentet that they are not happy with my roof looking like that now. I think anyone can see that the structure of the surface is altered for whatever reason that is beside the point now. I can see fibres bare in the close up and I am becoming exceedingly worried that his is a health hazard to me my family and neighbours and no one seems to be bothered. I cannot believe I cannot use my garden again this summer for not knowing wether this is safe or not; i directly put this down to the mishandling and lack of care given by my insurance company".

Klageren har videre anført, at "Also as I have said before i have not said that the roof company damaged my roof, just that it was obvious after it was cleaned that it looked very different on the surface. I have always stated that, and still i feel very unsafe in my garden".

Selskabet har anført, at forsikringen kun dækker "uforudsete" forsikringsbegivenheder, som er nævnt i vilkårene. Selskabet har anført, at klageren har fået renset taget for alger/mos, og at der efter rensningen falder "klumper af alger" ned på fortovet. Selskabet har anført, at almindelig oprydning efter algerens/tagrens ikke er dækket af forsikringen.

Det fremgår af besigtigelsesrapport af 24/9 2024 fra selskabets håndværkstaksator, at "Ft fremviser et tag fra 1987. Taget er sandsynligvis med asbest. Ft har fået renset taget to gange for mos. Han er bekymret for at der sidder asbest på undersiden af mosflager samt at grunden er forurenet. Han er i dialog med kommunen. Taget er ikke funktionsnedsat. Jeg ser forholdet som afvis da jeg ikke ser skade/hul på taget. Det er forurening som bekymrer ham".

Det fremgår af forsikringsbetingelserne for parcelhusforsikring, at "Forsikringen dækker direkte skade sket i forsikringstiden som følge af brand m.v. … som følge af svamp, råd og insekt … som følge af skjulte rør - utætheder og fejl … som følge af brud på stikledninger … som følge af anden skade og tyveri … som følge af udvidet vanddækning … 2.3.3 Hvad er ikke dækket … 2.3.3.9 Forurening Ansvar for skade opstået i forbindelse med forurening af luft, jord eller vand samt derved forvoldt skade på ting, med mindre skaden er opstået uventet, utilsigtet og ved et pludseligt uheld, og de sikrede har overholdt gældende offentlige forskrifter".

Nævnet bemærker, at det påhviler klageren at bevise, at der foreligger forhold, som udgør en dækningsberettigende skade.

Efter en gennemgang af sagen finder nævnet, at klageren ikke har bevist, at der foreligger en dækningsberettiget skadesårsag. Nævnet kan derfor ikke kritisere selskabets afgørelse.

Nævnet har blandt andet lagt vægt på, at det fremgår af besigtigelsesrapporten, at der er tale om "et tag fra 1987. Taget er sandsynligvis med asbest. Ft har fået renset taget to gange for mos. Han er bekymret for at der sidder asbest på undersiden af mosflager samt at grunden er forurenet ... Taget er ikke funktionsnedsat".

Nævnet bemærker, at fotografierne ikke indikerer, at der er tale om en dækningsberettiget skadesårsag.

Nævnet bemærker videre, at eventuelle skadelidte ikke ses at have rejst krav om erstatning som følge af forurening fra klagerens tag, hvorfor nævnet ikke har anledning til at tage stilling til, om forsikringsbestemmelsernes punkt 2.3.3.9 vil kunne finde anvendelse i en situation som den foreliggende. Nævnet bemærker, at det efter bestemmelsen er et krav, et en forureningsskade er opstået uventet, utilsigtet og ved et pludseligt uheld, og at klageren har overholdt gældende offentlige forskrifter. Som sagen foreligger oplyst, ses klageren ikke at have godtgjort, at der er tale om et pludseligt uheld.

Det, som klageren i øvrigt har anført – herunder at "anyone can see that the structure of the surface is altered for whatever reason that is beside the point now. I can see fibres bare in the close up and I am becoming exceedingly worried that his is a health hazard to me my family and neighbours" – kan ikke føre til andet resultat.

Som følge heraf

b e s t e m m e s :

Klageren får ikke medhold.

Jørgen Steen Sørensen

formand