Ankenævnet for Forsikring

918/910/13

Den 10. juni 2013 blev i sag nr. 83.009:

xxxx xxx xxxxx xxxxxxxx
xx xxxxxxxx xxxxxxxx xxxxxxx
xx xxxxxxx
xxxxxxx

mod

Alpha Insurance A/S
Sundkrogsgade 21
2100 København Ø

afsagt

k e n d e l s e :

_____

Forsikringstagerne har tegnet hundeforsikring i Alpha Insurance A/S. De klager over selskabets afvisning af at dække udgifter til dyrlægebehandling.

Selskabet har afvist at yde forsikringsdækning med henvisning til, at dyrlægeudgifterne relaterer sig til en lidelse, som opstod før forsikringens ikrafttræden eller senest i karensperioden (14 dage fra ikrafttrædelsestidspunktet).

Med ikrafttræden pr. 8/2 2011 tegnede klagerne hundeforsikring for en 3 måneder gammel hund. Samme dag opsøgte de dyrlæge, fordi hunden kradsede sig, og der blev igangsat behandling af loppeangreb med bl.a. lægemidlet Advocate. Senere blev der konstateret en hudlidelse, og klagerne krævede de afholdte dyrlægeudgifter dækket af selskabet. Kravet blev imidlertid afvist med den begrundelse, der er anført ovenfor.

Klagerne har i klagebrev af 25/7 2012 til nævnet anført:

> "I enclose all relevant documentation with regard to this complaint, but I will briefly outline my complaint:
>
> - I insured my dog with Petinsure in February 2011.
> - I brought her to the vet in February 2011 as she was scratching, she was a puppy and had fleas as advised by my vet who in turn gave her advocate. I returned again in March

2011 and again advocate was prescribed, I did not need to go back to my vet with this complaint of scratching until August 2011, so in my opinion and my vet's professional opinion the advocate worked for the fleas and was not as Petinsure say 'a condition that first showed clinical signs before the start day or during the Stand-down period'.

- My dog has not been diagnosed with any condition and never underwent any tests last year to see if she had a condition so I feel that Petinsure are totally unjust on this occasion by not paying me for my returns that I put in at the end of the insurance year, February 2012.
- Also what was the point in me insuring my dog if they won't pay out on my returns for the year 2011.
- My returns went in in February 2011 and yet did not get any response from then with regard to this claim until June 2012.

I would appreciate if you could look into this for me as I have paid Pet Insurance for 2011 and now 2012 and I have received nothing back for visits to my Vet in 2011 and yet in their terms and conditions they claim that they process & pay all claims as quickly & as efficiently as possible."

Heroverfor har selskabet i brev af 23/8 2012 til nævnet bl.a. anført:

"The key facts of this matter are as follows:

1. The Inception Date of this policy is 08 February 2011.
2. The claim includes veterinary expenses in relation to treatment administered at … Vetinary Clinic on the Inception Date of 08 February 2011, even though the policy clearly states under Vet Fees 'What We Will Not Pay', that we will not pay for 'A condition that first showed clinical signs before the Start Date or during the Stand-down period'.
3. The Stand-down Period of 14 days expired on 22 February 2011.
4. [Hunden] showed clinical signs of a skin condition at regular periods from 08 February 2011 until October 2011.
5. In February 2012, the policyholder submitted a claim for veterinary expenses in the amount of € 332, incurred for various consultations during 2011, in relation to the skin condition referenced above at No 4.

Petinsure, on behalf of Alpha Insurance A/S, declined this claim on 21st May 2012 on the basis that [hunden] suffered from a pre-existing condition which was manifest from the Inception Date. A preexisting condition is a specific exclusion of the Careplus Policy (see the section relating to Vet Fees on page 3 of the Attached policy Terms and Conditions) and is defined as:

'a Condition that is the same as, or has the same diagnosis or clinical signs as an illness, injury or clinical sign your pet had before the Start Date or during the Stand Down Period.'

Prior to making a decision on Claim No: …45, this claim was referred to our Expert Veterinary Surgeon. Based on his advice, we believe that the multiple presentations of [hunden] to the vet during 2011, detailed in the vetinary clinic notes submitted with the complaint, were caused by the same condition which was manifest from the Inception Date and therefore already during the Stand Down Period.

Based on the advice of our Expert Veterinary Surgeon, as set out above, Petinsure, on behalf of Alpha Insurance A/S declined Claim No: …45 at the initial review stage and at the appeal

stage, and, copies of the letters from 21st May 2012 and 7th June 2012 have already been supplied with the complaint.
Claim No: …45 includes several invoices for Veterinary Fees from the 08/02/2011 to the 27/10/2011. We note that all the dates claimed for are in relation to the skin condition called Dermatitis. Based on the Clinical Notes provided in support of the claim and on the advice of our Expert Veterinary Consultant, Alpha Insurance A/S can only reach one logical conclusion, which is that all invoices submitted with this claim are in relation to the one condition.

This conclusion is supported by the fact that only one claim form and only one invoice was submitted. Under the heading - Condition or Diagnosis - on the claim form, the condition of DETMATITIS has been noted. This condition has been selected by the policyholder or her vet in relation to the presentation of [hunden] to the vet on 08 February 2011, 23 March 2011, 30 May 2011, 29 August 2011, 17 Sep 2011 and 27 October 2011.

We note that on 30th May 2012 the policyholder's vet sent an e-mail to Petinsure stating that in his opinion the condition of pruritus which was manifest during the visit to his surgery on 27 October 2011 was not associated with the condition of pruritus which was manifest on 08 February 2011. Based on the Clinical Notes, it is clear that [hunden] presented on the 08 February 2011 with scratching, fleas and was prescribed advocate and Dex. For all future visits up to the 27th October 2011, similar clinical notes were recorded and similar treatment was administered.

Since the scratching did not resolve with the administration of advocate, it can only be concluded that the condition was not related merely to a flea infestation. We understand that the underlying cause of the scratching may not have been apparent at the first presentation of scratching, but given the unresponsiveness to advocate, it is obvious that fleas were not the main cause of the pruritus.

Based on all the evidence set out above, Alpha Insurance A/S must reject the statement of the policyholder's vet that the condition treated on 08 February 2011 was a different condition to the condition that was manifest in later visits to his practice.

As per the policy Terms and Conditions defining a pre-existing condition (see definition reproduced in bold text above), Alpha Insurance A/S cannot cover a condition that presented during the 14 day stand-down period of the policy.

In conclusion, Alpha Group correctly declined the element of the claim relating to the cost associated with the visit on 08 February 2011 on that basis that these costs relate to a condition that presented during the Stand-Down Period and is therefore subject to an Exclusion of the policy. The expenses relating to all visits after the date of 08 February 2011 were declined since these expenses were in relation to the same pre-existing condition, which was excluded for the reason set out fully above."

Nævnet har fået forelagt de bilag, parterne har fremlagt, herunder journaludskrift og faktura fra dyrlægen.

Af journaludskriften fra dyrlægen fremgår bl.a.:

"28/12/10: 2nd vacc & Milbemax & Advantage.

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08/02/11: Scratching; fleas. Advocate & Dex.
…
22/03/11: Advocate for scratching.
…
10/05/11: Severe vulval swelling in heat. Inj Delvo. Also Betamox in case of infection.
…
15/05/11: Review as still in heat & V+ yesterday. Today eating ok. Temp 38.5. TPF ok. No dehydration. BAR. Vulva swollen still. To keep watch on any more V+ but no treatment today. Book in for spay.
…
30/05/11: Vulva still swollen & red. Also has a hotspot either side of face. Inj DMV, given Clavaseptin & Fuciderm.
…
29-08-2011 …
Bilateral mixed OE. Also fleas & scratching at front feet: wakes from sleep to 'pounce' on them. Behavioural?
Advocate + Posatex ? DMV
…
17-09-2011 …
Hot spot on left face again. Clipped & Enrox. Change onto P+P food
…
05-10-2011 …
Occ cough. Norodine
Alco Kalm Aid for early separation anxiety
…
27-10-2011 …
Scratching at ears but no sign of mites. Also no evidence of fleas. Try DMV + Advocate
Also Maxitrol for mild conjunctivitis
…
29-11-2011 …
Bilateral OE again esp right. Discussed allergy, atopy etc. Rx Oridermyl & STRICT P&P only"

Af faktura af 25/1 2012 fra dyrlægen fremgår:

"**Date**	**Details**	**Cost**
08/02/11	Consultation	35.00
	Advocate	14.00
23/03/11	Advocate	14.00
30/05/11	Consultation	35.00
	Clavaseptin	24.00
	Fuciderm	25.00
29/08/11	Consultation	37.00
	DepoMedrone	12.00
17/09/11	Consultation	37.00
	Enrox	36.00
27/10/11	Consultation	37.00
	Advocate	14.00
	DepoMedrone	12.00
	Total	**€ 332.00**"

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Af forsikringsbetingelserne fremgår bl.a.:

"**DEFINITIONS**

…

Condition - All manifestations of clinical signs resulting in the same diagnosis regardless of the number of incidents or areas of the body affected.

…

Event - The manifestation of a Condition or illness or an accident causing Injury to Tour pet.

…

Stand-Down - there is no cover under this policy for, any illness or injury, death from illness or holiday cancellation costs, which occur within 14 days of the inception date of the Period of Insurance.

Start Date - The date shown on the Policy Schedule when the cover starts.

…

VET FEES

What We Will Pay

- The cost of Vet Fees for Treatment Your pet has received during the Period of Insurance for an Event.
- The Maximum Benefit for any one Event or in aggregate for one Period of Insurance will be shown on Your Policy Schedule.

What You Will Pay

For each claim, You must pay an amount as shown in Your Policy Schedule and as defined under Excess in this Terms and Conditions document.

What We Will Not Pay

…

- A Condition that first showed clinical signs before the Start Date or during the Stand-down period
- A pre-existing Condition, i.e. a Condition that is the same as, or has the same diagnosis or clinical signs as an illness, injury or clinical sign Your pet had before the Start Date or during the Stand-down period.
- A Condition that is caused by, relates to or results from an illness, injury or clinical sign Your pet had before the Start Date, or during the Stand-down period."

Nævnet udtaler:

Som sagen foreligger oplyst, har selskabet allerede godtgjort, at der er en sådan sammenhæng mellem det først konstaterede loppeangreb og den senere hudlidelse, at der er tale om en sammenhængende fortsat behandling af samme sygdom.

Nævnet finder derfor, at selskabet skal forsikringsdække behandlingen fra den 30/5 2011 og frem.

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Derfor

b e s t e m m e s :

Selskabet, Alpha Insurance A/S, skal forsikringsdække klagernes udgifter til dyrlæge-behandling fra den 30/5 2011.

Poul Sørensen