Ankenævnet for Forsikring

Den 4. november 2015 blev i sag nr. 88199:

xxxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxx

mod

Alpha Insurance A/S
Sundkrogsgade 21
2100 København Ø

afsagt

k e n d e l s e :

Forsikringstageren har haft husdyrforsikring i Alpha Insurance A/S. Hun klager over selskabets afslag på at yde dækning for omkostninger til behandling af hendes hunds allergi. Hun kræver også kompensation som følge af selskabets sagsbehandling.

Klageren har videre ønsket, at selskabet pålægges at sætte policen i kraft igen, således at fremtidige skader er dækket. Da hun efterfølgende har oplyst, at hendes hund har fået nyt hjem, udgår denne del af sagen.

Klageren har i sit klagebrev til nævnet bl.a. anført:

> "On the 15th October 2014 I took out an insurance policy for my dog … for a total cover of £3.000
>
> … was a rescue dog from … Kennels, in … The date I adopted … was 30/09/2014. I was so happy to have now got a new pet and looked forward to many years together.
>
> Part of the package I was given on the adoption was two complimentary vouchers to have a free consultation advice from one of their vets.
>
> Taking advantage of this I went along to the [dyrlæge1] on the 24th October 2014. All appeared to be well and the only verbal advice I was given was to have her treated for fleas, although non were on her at the time. I agreed for her to have the drops on her neck and made a purchase to cover this treatment of £8.74.
>
> Nothing was said to me that she had any condition other than a "terrier itch" which was nothing unusual for her breed.

However, on the 26th November 2014 I took … to [dyrlæge2] and saw the vet … This was a routine appointment for her first vaccination, mentioning that she had this itch it was decided to give her a blood test just to be on the side of precaution. This was undertaken on the 12/12/2014 and it was then found out that she had an allergy for which she needed treatment in the form of tablets.

I must emphasize that until she had this blood test we were not aware she had this allergy -I telephone the Insurance Company and advised them of the forward treatment my dog was going to have. No mention of any problems were raised on that phone call and when I gave follow up phone calls relating to her treatment.

Having understood all was well, my vet went ahead with …'s treatment both of us feeling confident that all would be ok with the settlement of [dyrlæge2's] account

In February 2015 I went up to the … for two weeks to visit my daughter taking … with me - she was in terrible discomfort then and I took her to a local vets at [dyrlæge3] and … was given a collar and her prescription was then put on a slightly higher dosage.

I returned home on the 15th February 2015 to find a letter which had been sent out from … Pet Insurance stating my costs would not be reimbursed. This had been totally based on a report from the [dyrlæge1] on that initial visit on the 24th October 2014 which was a ten minute free consultation and everything in that report was based on assumption, not fact.

Obviously, my vet [dyrlæge2] was really annoyed and undertook to write direct to the Insurance Company advising them that … had not been diagnosed until after the blood test and she had also, treated … for other matters not related to an allergy. She requested that they re-look into the matter and to pay all, if not part, of the bill which at that date stood at £1080.73.

On the 25th February 2015 a final response was sent from … Insurance upholding their decision not to pay out on the policy

I was really unhappy, as my dog was now very poorly, and no treatment was available for her due to this decision.

In their final letter I was advised that I could take my complaint further to the Financial Conduct Authority enclosing a leaflet from … Insurance and the address to forward my complaint too.

After much heartache and being put into a position whereby, I could not afford further treatment for my dog, I had to very reluctantly, hand her back to the kennels so she could be given the treatment she needed.
…
My dog has been in kennels for five months, and I would still like to get her home but whilst I am faced with this large outstanding bill I am not in a position to pay for her treatment. I am a pensioner with a low income, and the worry of having to pay this bill is really making me ill.
…
I feel that I am entitled to some additional compensation, for the distress, time consuming and heartache this insurance company has given me. I almost feel, that they feel I have just gone away!

I would also like to ask the question, should my claim be successful, what happens about future treatment for …!

I had to give my dog back to kennels as I could not afford her daily treatment, without insurance cover, I know my dog is still in kennels and if I were successful I would dearly like to have her home, would you be in a position to instruct the insurance company to re-instate my policy and cover her for the cost of her medication!"

I brev af 22/6 2015 til nævnet har klageren supplerende oplyst:

"On wrote to you on the 16th June 2015 relating to the above policy and the dispute I have with … Insurance.

In my correspondence I mentioned that my vet [dyrlæge2] wrote to the insurance company when they decided not to pay out for the treatment she was undertaking for my dog …

Since writing to you [dyrlæge2] has sent me a copy of the letter she wrote to … Insurance and I enclose a copy of this for your files.

Even after, receiving this letter … Insurance were adamant in their decision not to honour my claim.

Also, since my previous letter I have heard from … veterinary Hospital informing me that my dog …, has been re-homed. I was obviously upset, as in the back of my mind I had hoped that sometime in the near future I would get her back. This is never going to happen now, but at least I know she is alive and happy.

All this upset and anguish being caused to myself, my dog and other parties, on the decision of not paying out for …'s treatment.

I am still left with an outstanding bill of £1080.73 to [dyrlæge2] and with this overhead to clear, not in a position to buy another dog."

Af selskabets brev af 14/8 2015 til nævnet fremgår det bl.a.:

"The position of Alpha Insurance A/S on this claim and complaint has already been made clear to [klageren] in her correspondence with our appointed claims administrators, … Insurance Services Limited, copies of which have already supplied to Ankenævnet for Forsikring by the complainant. We refer in particular to the Final Response letter dated 13th July 2015.

In that letter, reference is made to certain text in the insurance policy wording. We cannot see whether a full copy of the insurance policy wording has already been supplied to Ankenævnet for Forsikring and are therefore taking this opportunity to enclose a copy of [klagerens] Insurance Schedule (Attachment 1.) and the Petguard Policy Wording (Attachment 2.).

The relevant sections in the policy excluding [klagerens] claim for treatment for her pet from coverage have been highlighted in the Final Response letter and we maintain the declinature of her claim.

In addition to reimbursement of the vetinary fees of GBP 1,080.73, we have noted that in her initial letter to Ankenævnet for Forsikring, [klageren] was seeking reinstatement of her insurance policy and compensation for distress, time spent and heartache. We understand that [klagerens] pet has now been re-homed and that her claim for reinstatement of the insurance policy may therefore be irrelevant.

We would nevertheless wish it brought to [klagerens] notice that Ankenævnet for Forsikring cannot compel Alpha Insurance A/S to reinstate an insurance policy that has been properly cancelled nor can any compensation for distress, time spent or heartache be awarded."

I udskrift af 27/1 2015 fra dyrlæge1 er det bl.a. noteret:

"Date	Description
24/10/14	Weight: 5.55 kg consultation new pet New pet from …, down as Border x Lakeland terrier, but suspect she is more like Yorkie x JRT. approx 5 years, not sure if neutered, but may have had litter, teeth good, mild tartar only, CVS fine, abdo NAD, bit pruritic flanks, scratching in here, no sign of fleas, had fiprnil product end … and o used flea shampoo. advise cover for mites, but may be more likley terrier allergy, RV 2-4 weeks if no better."

Af selskabets brev af 4/2 2015 til klageren fremgår det bl.a.:

"Unfortunately we are unable to reimburse the costs incurred on this occasion and we would refer you to general exclusion 2 of your policy which states that we will not pay 'costs resulting from any illness occurring or showing clinical signs within the first 14 days of the start of cover for your pet.'

Your policy incepted on the 15th October 2014 and it has been noted from the clinical history that the condition was first identified on the 24th October 2014 which is within the first 14 days of cover."

Klagerens dyrlæge2 har i brev af 17/2 2015 til selskabet bedt om en ny vurdering af sagen, idet det bl.a. fremgår:

"I am writing in response to the refusal to cover … for her skin investigations. [Dyrlæge1's] clinical history advised cover for mites and that she may have 'terrier allergy'. This term is however, extremely non-specific and it was not suggested that she have any allergy to mites or any mite infestation at that time as no other investigations were carried to confirm this. Neither did she receive any treatment at this time.

… was then presented to a colleague over 3 weeks after this examination for having a dry coat and being a little itchy. Again there was not any further testing at this time to rule in or out the presence of mites as the underlying issue, and she was not prescribed any medication related to this at that time.

I then saw … another 3 weeks later on from this on the 26th November 2014 for a more severe skin irritation and this time it was decided that she did indeed need medication in relation to her skin. After a further check up I discussed with [klageren] about investigating for an underlying condition, which then subsequently involved skin sampling and blood sampling. These tests did reveal that … does indeed have allergy to dust and storage mites but also grass pollens, and I believe that these sensitivities are brought about because of a complex, multifactorial malfunction in her immune system, atopic dermatitis, which was not evident in … at the time of her first check up with [dyrlæge1].

I think it would be short sighted to refuse cover to … for this reason, who is otherwise a fit and healthy dog and who has been given a second chance at a happy life with [klageren]."

I brev af 25/2 2015 til klageren har selskabet bl.a. anført:

"If my understanding is correct your complaint centres around the fact that your recent claim for … has been declined due to symptoms being noted within the 14 day waiting period.

Having investigated the claim verdict I can confirm that the decision has been made in line with the … Pet Insurance policy terms.

Under the general exclusions in your policy wording the following exclusion applies

*Costs resulting from any **Illness** occurring or showing **Clinical Signs** within the first 14 days of the start of cover for **Your Pet**.*

In your policy the words 'illness' and 'clinical signs' are defined as the following

Illness
Sickness, disease, or change in your pet's normal healthy state

Clinical Signs
Changes in your pet's normal healthy state, its bodily functions or behaviour

Although there was not an official diagnosis made until after … had received blood tests the clinical signs or symptoms were present within the waiting period. The results of …'s blood test show that she does indeed have allergies as [dyrlæge1] had initially illustrated.

Taking everything into consideration I am unfortunately unable to uphold your complaint. Whilst this may come as a disappointment to you, I trust you can see how I have reached this conclusion."

I forsikringsbetingelserne hedder det bl.a.:

"**Definitions**

In this Policy certain words are defined and whenever they are used will have the meaning shown below:

Clinical Signs
Changes in your pet's normal healthy state, its bodily functions or behaviour

…
Illness
Sickness, disease, or change in your pet's normal healthy state
…
Section 1 - Veterinary Fees

What is covered
The costs for **Treatment** of **Your Pet** by a vet, or **Complementary Treatment** carried out under the direction of **Your** vet up to the **Maximum Benefit** for **Veterinary Fees** for each distinct **Condition, Injury** and/or **Illness** during the **Period of Insurance**.
…
What is not covered
…
3. Costs resulting from any **Illness** first occurring or showing **Clinical Signs** within the first 14 days of the start of cover for **Your Pet**.

…
General Exclusions
…
2. Costs resulting from any **Illness** occurring or showing **Clinical Signs** within the first 14 days of the start of cover for **Your Pet**."

Nævnet udtaler:
Det fremgår af sagen, at klageren den 30/9 2014 anskaffede sig en hund fra en kennel, og den 15/10 2014 tegnede hun en hundesygeforsikring.

Efter det oplyste blev hunden undersøgt af en dyrlæge den 24/10 2014 og modtog behandling for lopper, selvom der ikke blev fundet lopper på undersøgelsestidspunktet. I dyrlægejournalen blev det bl.a. noteret, at hunden kløede sig på flankerne, og at der formentligt var tale om allergi. Der blev givet råd om en ny undersøgelse inden for 2-4 uger, hvis der ikke var bedring.

Klageren har oplyst, at hunden den 12/12 2010 fik foretaget en blodprøve, der viste, at hunden havde allergi, som skulle behandles med tabletter.

Det fremgår af de gengivne forsikringsbetingelser, at forsikringen ikke dækker udgifter til dyrlæge, såfremt omkostningerne hertil er forbundet med en sygdom, der er indtrådt eller har vist kliniske tegn inden for de første 14 dage af forsikringstiden.

Efter en gennemgang af sagen finder nævnet ikke grundlag for at kritisere selskabets afslag på dækning. Nævnet har ved afgørelsen bl.a. lagt vægt på, at det i dyrlægejournalen er noteret, at hunden inden for de første 14 dage af forsikringstiden havde kløe, og at der muligvis var tale om en allergi, hvilket er den lidelse, som senere blev konstateret, og som klageren søgte dækning for.

På dette grundlag finder nævnet, at klageren ikke har bevist, at selskabets sagsbehandling mv. kan begrunde et kompensationskrav eller erstatningskrav i forhold til klageren.

Som følge heraf

b e s t e m m e s :

Klageren får ikke medhold.

Poul Sørensen