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Insurance, Risk Management & Employee Benefits Specialists

Lockton Companies

International Limited considers the potential effect on insurance cover of a systems failure.

When it comes to making a claim on your insurance after a property has been broken into, the failure of security systems can have a significant impact on how or if insurance cover will be confirmed. As the following example shows, it is easy to be caught unawares if you have not ensured that you are properly insured and fully aware of any specific exclusions or conditions which may be contained within your insurance policy.

Relying on a standard Public/Products Liability insurance is not enough, Efficacy Cover is required.

Efficacy cover is an indemnity that is provided to cover your legal liability for losses arising out of bodily injury or loss of, or damage to, property where such liability has been accepted under contract in respect of the failure to properly provide or fulfil the services for which you are employed.

In a nutshell, your product or system fails to do what you said it would do and this results in loss and/or injury.

A case in point -

John Reilly v NIG (2008)

John Reilly installed fire protection systems. A fire occurred at a third party's premises and one of the three fire extinguishing systems failed to operate. The third party claimed £2 million from John Reilly who referred the claim to NIG under his public/product liability policy.

NIG refused to indemnify him on the basis that the claim fell within the exclusion relating to 'the failure of any fire or intruder alarm or machinery to perform its function'.

Decision: The court reviewed the wording of the policy and decided that the claim was excluded as the fire extinguishing system itself failed, rather than the installation of that system. They found that there was perfectly good commercial rationale for the exclusion to be in place. As a result of this NIG were able to refuse to deal with the claim.

Opinion: Were an adequate Efficacy Policy in place and the cause of loss were to be found to be the fault of John Reilly, Insurers would have dealt with the claim.

Be aware...

It is crucial to ensure that the insurance policies obtained provide adequate protection for the activities and responsibilities of yourselves and your employees. As we have seen, the courts have proved willing to uphold an insurer's refusal to indemnify where security and fire systems have not been activated or properly installed and may avoid cover where insurance is limited by an exclusion clause.

In the event of the failure of a security system you have installed (or supplied?), check that your proposed solution does not invalidate your insurance.

When it comes to efficacy cover, indemnity is provided for your legal liability for loss of or damage to material property belonging to the customer and accepted specifically under your contract in respect of the failure to properly provide or fulfil services for which you are employed.

This coverage is specifically designed to meet the requirements of organisations providing and/or installing such equipment as intruder alarms, CCTV and the like.

To take advantage of this service and to reduce your costs in today's economic climate, please call Lockton on a dedicated line - **0845 602 9270**.