



[Ask Tutwiler](#)

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Insurance Claims Questions

Each issue we ask our readers to submit burning questions they have so we can answer them to the benefit of all. Please keep in mind that we are not attorneys and will not provide legal advice.

Ralph E. Moon Ph.D., CHMM, CIAQP asks: What is the definition of "damage" with regard to a property loss, i.e., water damage mold growth?

Answer: When questions come up about a definition of a term or word in an insurance property loss one must first look to the policy to see if the term or word is defined. I am unaware of any standard property policies where "damage" or "water damaged mold growth" are defined terms. If not defined in the policies, the courts will often look to the meaning of the word as defined in a dictionary. But to try and answer this question for you, I think there are two dynamics that need to be considered. The first from an adjusting perspective is the condition of the property. If the property is damaged by water, and there are visible signs of mold growth that can be determined to have come from a water event, then that is a covered insurance loss. The second issue to consider if the loss is covered is more problematic. Professional testing may be required to determine air quality issues to avoid sick building syndrome problems that may arise. Damages are often subjective in adjusting and are often debated and litigated. The scope of the damages can mean one thing to one adjuster and

another to someone else. Adjusting is an art form. So what one adjuster may concede to as water damage related mold growth, another may disagree with the differences turning on opinions from experts brought in by the various parties.

Brent Winans asks: *What responsibility does an insurer have to make payments before the final amount of the claim is determined?*

Answer: In my view, an insurance company selling a first party property insurance policy has a duty to act in good faith, conduct their business in a fair and honest manner so as to indemnify their policyholder for their loss in a timely manner. This is their responsibility and fulfills the promise they made in exchange for the premium paid by the policyholder. Having said that, once the insurance company has confirmed this is a covered loss and has arrived at their opinion of some amount of damages (whether they are agreed to in total by their insured or not) they should tender this amount without any reservation or conditions. Given insurance companies obligation to post reserves (expected total dollar exposure amount) after 30 days of notice of a loss, a significant advance payment should be made to its insured early on. If the building loss can be settled while the rest of the claim is being determined and/or negotiated, then that payment should be made as soon as possible.

A South Dakota Attorney asks: *Are there any industry standards published or recognized that can resolve this issue? With an ACV policy, (for example an ISO Commercial Property form) is it appropriate to apply depreciation to the tear down process, where the loss is a partial fire loss? Hypothetical: 40% Fireman knocks down part of the sheet rock in a pile on the floor. Insurance company pays the full cost to remove that debris. Part of the sheetrock that is damaged is still attached to the wall. Insurance company applies 40% depreciation to the cost of removing that debris, because they claim it is a "function of betterment."*

Answer: I do not think even under an actual cash value (AC V) policy the debris cost should be

depreciated. While the complete method to remove this drywall is not specified, (i.e. equipment, dumpsters, etc.) generally debris removal has a large labor component and labor is not a depreciable item. As an aside, I fail to see how removing damaged drywall from a building is betterment. This removal is not making the building better or improving it over what it was before the loss.

Got a question for us to publish? "Ask Tutwiler" at: tutwiler@publicadjuster.com