

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1744

Date of Decision: 18 February 2020

Complaint

The customer experienced a leak that resulted in high charges being incurred. The customer indicates that they were eventually provided with a leak allowance of 100% for wastewater and 50% for water but the wholesaler (RST Water) would not agree to provide any further allowance. The company, in its capacity as the customer's water retailer, has explained to the customer that the wholesaler has refused to provide any further leak allowance. The customer is displeased with this position and the company's customer service provision in connection with this issue. The customer therefore submits that they should be entitled to an apology, a 100% leak allowance for water and wastewater (or "an adjustment to make up for the 50% that has been overlooked by the wholesaler for Waterplus' failing to read the meter and notifying customer sooner about the leak"), removal of £140.00 in late payment fees and compensation in the sum of £250.00 (for time and effort he has had to spend on this issue away from running his business).

Defence

The company explains that the water wholesaler's position is that it has provided the customer with the appropriate leak allowance. The wholesaler does not accept that it should provide any further leak allowance. The company has confirmed (in its capacity as the customer's water retailer) that the wholesaler will not depart from its position. The company accepts that there have been shortfalls in its customer service provision but it has already provided the customer with appropriate redress for these oversights. The company states that, in light of the above, it does not accept any further liability for the customer's claims for redress.

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Findings

The company has demonstrated that it carried out its obligations in its capacity as the customer's water retailer and adequately addressed any shortfalls in its service provision. Consequently, in the absence of any unresolved material failures on the part of the company, I find that the customer's claims for further redress are unable to succeed.

Outcome

The company does not need to take any further action. This decision cannot be appealed; however, the customer is not obliged to accept this decision and is free to pursue resolution through all other avenues as available to them.

The customer must reply by 17 March 2020 to accept or reject this decision.

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Date of Decision: 18 February 2020

Party Details

Customer: [].

Company: [].

Case Outline

The customer's complaint is that:

- A leak occurred at their property which resulted in a high bill.
- The customer complained to the company (the retailer) but felt that they did not receive sufficient assistance. Therefore, the issue was referred to the wholesaler (RST Water).
- The wholesaler attended the property and confirmed that the leak was located in a private estate. Eventually, the Landlord of the property provided permission for 'DynoRod' to attend and address the issue.
- Initially, the wholesaler rejected the customer's claim for a leak allowance. However, it later agreed to an allowance of 100% for foul water. The customer's application also states that "An allowance has been awarded against the works affected period capped at 50% in line with RST's Scheme of Charges 2018-2019".
- When CCWater requested a breakdown of the leak allowance calculation, the company stated that it had incorrectly calculated this. Accordingly, the company amended this calculation and also provided the customer with a further £20.00 in recognition of this issue. Ultimately, the customer was not satisfied with outcome of CCWater's resolution process.
- The customer remains displeased with the allowance awarded. He submits that the company did not read their water meter often enough. If it had read the meter more often, the customer asserts that the leak would not have gone unnoticed.
- Moreover, the customer submits that he is displeased with the company's customer service. He asserts that he has had to chase the company in relation to this matter.

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- The company's position is that it has already appropriately addressed the customer's issues.
- The customer is unhappy with this position and is now seeking an apology, a 100% leak allowance for water and wastewater (or "an adjustment to make up for the 50% that has been overlooked by the wholesaler for Waterplus' failing to read the meter and notifying customer sooner about the leak"), removal of late payment fees and compensation in the sum of £250.00 (for time and effort he has had to spend on this issue away from running his business).

The company's response is that:

- It does not accept the customer's claims for redress.
- It notes that the customer is unhappy with the leak allowance granted by the wholesaler.
- The company submits that it has reviewed the account in full and confirms that the leak allowance initially applied was correctly calculated.
- The company apologises that it is unable to apply any further leak allowances for the customer. However, this decision has been made by the wholesaler.
- The company confirms that it was reported to CCWater that the allowance initially applied to the customer's account had been calculated incorrectly (therefore an additional credit of £210.51 was applied to the customer's account). However, it has since been discovered that the original allowance was correct (based on the calculations sent to the company from the wholesaler). Accordingly, the customer has been incorrectly provided with an excess payment of £210.51. However, the company states that it will not seek to recover this from the customer (in recognition of its failures).
- The company submits that it has applied compensation in the sum of £20.00 for incorrectly working out the leak allowance and a GSS payment of £20.00 for not responding to the customer within 10 working days. Accordingly, the company submits that it has now provided the customer with payments totaling £250.51. The company submits that this is fair and justified.
- The company apologises for any stress and inconvenience caused to the customer as a result of this matter. However, it does not accept any further liability to the customer.

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How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on a balance of probabilities that the company has failed to provide its services to the standard one would reasonably expect and that as a result of this failure the customer has suffered some loss or detriment. If no such failure or loss is shown, the company will not be liable.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

How was this decision reached?

1. It is evident that the customer's core complaint rests with the fact that the water wholesaler has rejected their claim for a further leak allowance. The customer is unhappy with this position (as well as the company's customer service provision in connection with this matter) and is now claiming for an apology, a further leak allowance, a removal of late payment fees and compensation in the sum of £250.00 (for time and effort he has had to spend on this issue away from running his business).
2. I remind the parties that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I acknowledge that the customer is unhappy with the wholesaler's decision to reject their request to provide a further leak allowance. In order to make a decision in this matter, I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April

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2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for that the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.

4. Therefore, whilst I am unable to consider any substantive concerns regarding the wholesaler's actions or its decision to reject the customer's claim to provide a further leak allowance, I am able to look at whether the service provided by the company (Water Plus Limited) has met the standard to be reasonably expected (of a water retailer) by the average person. Accordingly, I am only able to address the customer's remaining claims for an apology, the removal of late payment fees and compensation in the sum of £250.00. I will proceed accordingly.
5. Following a review of all the submissions and documents provided by the respective parties, I note that the company carried out its water retailer obligations to confirm the wholesaler's position to the customer. In this vein, I note that the company (as retailer) was eventually successful in obtaining some leak allowances for the customer. The customer then sought a further leak allowance. However, the wholesaler ultimately declined to depart from its final position on the matter. The company then implemented the wholesaler's final position. Accordingly, under the circumstances, I am satisfied that the company acted appropriately to confirm the wholesaler's position in relation to the customer's complaint and then implement its final position.
6. I am mindful that the customer has raised concerns regarding the frequency with which the company attended their property to take actual readings from their water meter and has alleged a failure on its part because, if the meter had been read more often, the leak might have been identified sooner. The customer indicates that their water meter had not been read in over a year. I note that the company's scheme of charges makes clear that in the event a meter reading is not obtained, it is permitted to rely on estimated charges instead (meaning that an actual meter reading is not required). In addition, I am mindful that OFWAT only recommends that companies should read customers' water meters once every two years. In any event, based on the submissions provided, I am not satisfied that the company guarantees that it will actively monitor all its customers' water usage and accurately deduce when a leak occurs. Accordingly, I

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am not satisfied that the company has failed to provide its services to the standard to be reasonably expected in connection with this matter. In the interest of completeness, I draw attention to the fact that by virtue of section 142 of the Water Industry Act 1991, the company is entitled to set its own scheme of charges and charge its customers in accordance with that scheme of charges. Furthermore, I must point out that it is entirely beyond the scope of this scheme to examine/review any issues relating to the fairness/appropriateness of the company's set contract terms and/or commercial practices (WATRS Rule 3.5).

7. After examination of all the submissions, I am satisfied that there have been instances of service shortfalls on the part of the company (and I note that the company has accepted and provided details relating to some of these shortcomings). In recognition of its failures, I note that the company has provided the customer with two compensation payments of £20.00. In addition, I also note that the company erroneously provided the customer with a leak allowance payment in excess of the sum that was correctly due. However, the company has confirmed that it will honour the excessively applied £210.51 allowance payment as compensation in recognition of its shortcomings. Accordingly, I acknowledge that the company has now provided the customer with payments totaling £250.51. I am mindful that the customer has claimed compensation in the sum of £250.00 for time and effort he has had to spend on this issue away from running his business and I have taken note of the company's terms and conditions which state that it excludes liability for any loss of profits, loss of income or loss of business. Bearing in mind all the above, even if all the company's shortcomings as highlighted by the respective parties were to be accepted, having regard for the nature and extent of these shortcomings (and bearing in mind the remedial actions already taken by the company), I am objectively satisfied that the overall sum of compensation already provided to the customer by the company was fair and reasonable. Accordingly, under the circumstances, I am unable to conclude that any further compensation payment is warranted.
8. Turning to the customer's claim for an apology; I note that the customer is claiming for an apology from the wholesaler for its failure to calculate the 28 day repair time correctly. As already detailed above, I am unable to consider any substantive complaints against the actions of the wholesaler. Accordingly, I will not address this issue any further. I note that the customer has also claimed an apology from the company for it failing to acknowledge/respond to their letter of 6 August 2019 and for the company failing to send leak forms despite alleging it had done so. Upon review of the submissions provided, I note that the company acknowledged these issues during the course of its communications* and extended apologies (*in October

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2019 and May 2019). Furthermore, I note that the customer has sought an apology for the company's failures in accurately calculating the leak allowance and for the anxiety/stress caused by this entire issue. I am mindful that the company, as part of its defence, has acknowledged these issues and already provided a broad apology for all the stress and inconvenience caused to the customer in connection to this entire matter. Consequently, under the circumstances, I am satisfied that the company has provided adequate apologies to the customer and I do not find that any further apologies are warranted at this time.

9. I acknowledge that the customer has also claimed for the company to remove late payment fees from his bills. I note the customer has indicated that these payments were late because he was in the process of pursuing a leak allowance (and the company was slow on this issue). Whilst I appreciate the customer's position, the company's scheme of charges expressly states that it is permitted to charge late payment fees for payments that have not been made on time. Furthermore, the company's terms and conditions also indicate that the customer is obliged to pay the company's bills by the due date and it will later reconcile any actual charges due in its invoices/statements. Accordingly, I am unable to conclude that this issue amounts to a service provision failure on the part of the company and cannot find that a removal of these fees is objectively warranted.
10. Therefore, in light of all the above, I am not satisfied that there are any unresolved material failures on the part of the company to provide its services to the standard to be reasonably expected by the average person. Consequently, in the absence of any unresolved failures on the part of the company (in its capacity as a water retailer), I find that I am unable to uphold the customer's claims for redress.
11. This marks the end of the WATRS stage of the customer's complaint.

Outcome

The company does not need to take any further action. This decision cannot be appealed; however, the customer is not obliged to accept this decision and is free to pursue resolution through all other avenues as available to them.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 17 March 2020 to accept or reject this decision.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.



E. Higashi LLB (Hons), PGDip (LPC), MCI Arb.

Adjudicator

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