

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT 1758

Date of Decision: 20 January 2020

Complaint

The customer states that the company has failed to address issues with sewerage assets at her home, []. She claims that the company will not adequately address necessary repairs and that she has received a poor level of customer service from the company in response to her complaints. She states that she has suffered stress and inconvenience and that there have been episodes of flooding that she has had to deal with at her home and this is the fault of the company.

She seeks a direction that the company carry out works to the sewers in accordance with the customer's wishes, in particular that sewerage from chamber 1 should be diverted straight to chamber 5. The customer seeks a costing of the proposed works. The customer also seeks an apology from the company due to the poor handling of the complaint.

Defence

The company denies that it is at fault for the manner in which the sewerage assets at the customer's home have been installed. It states that it has acted appropriately and carried out investigations into the issues raised. The company does not accept that its duty obliges it to comply with the customer's requests regarding the manner of repair required. The company has offered to carry out some repairs and states it has already carried out root cutting, but the customer has declined the offer as these are not the repairs that she deems suitable. The company has stated that it will assist the customer in carrying out her own repairs but will not fund or carry them out itself.

Findings

I have not found, based on the evidence supplied, that any fault has been shown in the action of the company in relation to either the assets at the customer's home or the manner in which the company has responded to the complaints of the customer.

Outcome

The company does not need to take any further action.

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

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ADJUDICATOR'S DECISION

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Date of Decision: 20 January 2020

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- There are sewerage problems at her address: [] ("the Property").
- She states that she and her husband purchased the Property in 2018. She claims that she understood the Property to have a septic tank and that no survey showed a shared public sewer.
- She states that it was then discovered that the septic tank was not in use and that the Property was connected to the main sewer. She states that this issue has been resolved with the company.
- The main issue is that the Property has within its grounds shared public sewer. She claims that there are multiple issues with this sewer.
- She states that these have been reported to the company.
- Chamber 1 (outside the Property), which was connected and authorised by the company in 2011, does not meet with regulations. It is a trip hazard and the cause of many blockages.
- That the pipe between chamber 1 and chamber 2 blocks regularly due to a "shallow fall".
- Chamber 2 is a public sewer beneath the kitchen of the Property. The customer states that the company has said this may be removed but at a high cost.
- Chamber 3 (outside the kitchen of the Property) is the cause of subsidence and leakage of sewerage. The path is also uneven and the company has failed to address the issues with this chamber which is a company asset.
- The pipe between chambers 3 and 4 has root blockage and is partly collapsed.

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- Chamber 4 is also subject to blockages and that the pipe between chamber 4 and chamber 5 has caused blockages. The customer states that the company has no plans to resolve this.
- The customer claims that the company has not made realistic proposals to resolve the problems outlined.
- She states that the company has been unwilling to produce costings.
- She states that the customer service of the company has been poor in the manner in which this complaint has been processed.
- The following remedies are sought by the customer: A direction that the company carry out works to the sewers in accordance with the customer's wishes, in particular that sewerage from chamber 1 should be diverted straight to chamber 5. The customer seeks a costing of any proposed works. The customer also seeks an apology from the company due to the poor handling of the complaint.

The company's response is that:

- The footprint of the Property has been extended over the years, prior to the customer's residence.
- It accepts that the sewer line does cross through the garden of the Property and a neighbouring property.
- It states that this was once under the ownership of one person and that the permissions sought for these sewer connections were for a private connection on private land.
- The permission given in 2011 was for the carrying of flows and not the method used, as it was a private matter.
- Only two incidents of blockage have been reported to the company by the customer.
- There have been no prior attendances at the Property according to records.
- The first complaint was raised on the 24th April 2019 and a later survey on the 14th June 2019 did not reveal any "major operational or structural issues".
- Regarding chamber 1 the company states that it has proposed that it takes down the chamber and caps off the line followed by the installation of a "sweeping bend". The company state that the customer has declined this proposal.
- Regarding chamber 2, it states that this lies under the kitchen as a previous owner built over the chamber. It states that the customer would have to carry out this diversion but that it has offered to assist with the application to the Developer Services Team.
- It states that root cutting is normal practice and does not affect trees.
- It states that the other issues outlined by the customer have not been raised with the company.

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- It states that the remedy sought by the customer is not necessary in its view and that it will cause unnecessary work and be costly.
- It states that there was a failure in service that was down to human error and not deliberate.
- The company intends to install a patch line to repair the crack in the line where the roots were located. It proposes to take down chamber 2 and cap it.
- It states that the costs of the customer's proposed resolution would be in the region of £7,500.
- It does not believe that its findings support a major undertaking of work and states that its proposals are sufficient.

In reply the customer states:

- She believes that the company's proposal that she carries out the required work is an attempt by it to save costs.
- She has answered each of the company's points in reply and disputes that the 2011 permission was in relation to a private application. She states that she has seen documents relating to this application that show otherwise.

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?

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1. My decision in this matter is made entirely based on the information and evidence provided by the parties.
2. Please note that while not all the facts and incidents related by the parties are dealt with directly in this decision, I have taken note of everything that each party has stated.
3. The documentation submitted has been carefully assessed and I have concluded that there are two main issues: the liability of the company for the problems in the customer's sewerage system and the customer service provided by the company.
4. The first issue, whilst seemingly complicated due to the detailed information presented, is based primarily on the liability of the company for the current condition of the sewerage assets on the Property.
5. The customer states that the company is liable and should repair the assets in a manner acceptable to her. On the other hand, the company states that the assets were put in place by a prior owner and that permission was only given for flow and not the method by which the work was to be carried out as it was a private matter.
6. The company has stated that in 2011 a prior owner requested permission for carrying of flows. It states that this was a private application and that the method of connection was a matter for the owner. The company has provided evidence at Appendix 1 to show the layout of the Property. The company states that the Property and the neighbouring land were at that time under that same ownership. This is not disputed by the customer, but the customer does dispute the assertion that the application was private.
7. The customer states in her reply: "*Planning application under [] City Council Ref. 11/[] for the discharge of the foul drainage has documentation between the applicant, [] Council and [] water. This clearly indicates that the property had been sold at the time of the connection, meaning this was never a private connection.*" I am not persuaded that this indicates that the company is wrong in its assertion that the application and permission given was for a private connection. Also, this does not undermine the company's assertion that it did not install the asset. Regarding this matter, I am inclined, based on the evidence and information presented, to accept the position of the company in relation to the installation of the sewerage

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assets in 2011. I do not find that there is any fault on the part of the company shown on the evidence supplied.

8. The customer states that chamber 2 is beneath the the kitchen of the Property. This is not contradicted by the company, but it does assert that this was due to the fact that a previous owner had built the kitchen over the chamber in question. This is not directly challenged by the customer.
9. I note that the customer states that she thought that the Property was served by a septic tank and only realised later that there were a number of manholes on the Property. She sates that this was not evident from the survey. The company records support this history. I note here that whilst there is no fault shown in relation to the company in this regard the customer may have recourse against other parties and in another forum in relation to this issue. I am not advising the customer in relation to any potential case but noting, for clarity, that there may be other options open to the customer.
10. In dealing with such a complaint I have to clarify that a remedy can only be awarded against a company if I am satisfied, based on the evidence, that there is some failure on the part of the company to act in accordance with its duties. Much of the information submitted in this application is directly related to the type of action preferred by the customer. This is not a criticism but I have to be clear that I can only direct a remedy if there is fault found in relation to the company. Therefore, any information in relation to the best type of action to take would be a matter dealt with in the remedy's section of a successful application.
11. Customer Service: The customer makes the complaint that the company has dealt poorly with her complaint. She states that it has been stressful for her and that the company has stated that she would not allow access to the Property, has missed deadlines, not made callbacks and has sent confidential emails to the wrong address. She also states that she has had to facilitate visits to her Property on five occasions and missed work. She states that there is a general lack of communication within the company.
12. The company has accepted that due to human error there were emails sent to the wrong address. The company states that the emails did not contain sensitive information and that it has apologised to the customer.

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13. I note that the customer states that she has made more complaints than the company's records show. She states that she has also had to deal with flooding issues herself. I accept the truthfulness of the customer's account; however, I do not find that the evidence presented supports the assertion that there was a significant difference between the complaints accepted by the company and those alleged by the customer.
14. The company denies that any delays have been due to its fault in its actions based on the complaints if the customer. The company has produced evidence of its response dates. Based on the information provided I am not persuaded that there was any significant or unacceptable delay in the company's actions in relation to the complaints.
15. I note that the company has carried out surveys at the Property. It is normal service provider practice to undertake such investigations when a complaint has been made and I do consider such visits as reasonable. I do accept that ongoing investigations and negotiations can be very frustrating for a customer and that this is especially so when a customer is not satisfied with the outcome of such work.
16. I note that the company has made offers to carry out works at the Property. The customer has declined the offers made as she is not content with the strategy chosen by the company to address the problem. I note that the company has not found in its investigations that there were any "major operational or structural issues" at the Property. There is no evidence that this summary of the situation made by the company is not technically correct. I realise that the customer is unhappy with the present situation but I do not find on the evidence presented that this is due to a fault in the actions of the company.
17. The customer has complained that the company has not provided an estimate of comparable costs. She also states that the company is attempting to evade costs by asking her to carry out works. I do not find that this is supported in the evidence. The company has, in its defence, explained that it is not possible to give an accurate cost estimate without ascertaining certain factors and obtaining quotations. It has, nonetheless, given an estimate of £7,500 for the purposes of this action. The customer has stated that this is a high estimate and that she wanted a comparative cost exercise carried out to understand the advantage of the company's proposed works against her preferred remedy. While I acknowledge that there is clearly a difference of opinion between the parties in this regard. I do not find that the evidence is

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indicative on any failing on the part of the company. I find that both parties have made an honest assessment of their preferred methods of addressing the problem.

18. I appreciate that the customer will be very disappointed in this outcome. I must emphasise that there is nothing in this decision that discredits the honesty and sincerity of the customer in dealing with what is clearly a very upsetting situation at her Property. The decision here is based on the company's liabilities under the legislation and is based on the evidence provided.

19. I do not find, based on the evidence provided, that what has been submitted amounts to a failure in customer service by the company.

20. I do not find the company failed to provide its services to the customer to the standard to be reasonably expected by the average person based on the information before me. It therefore follows that this application fails.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 17 February 2020 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

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A handwritten signature in cursive script, reading "J J Higgins", on a light green rectangular background.

J J Higgins (Barrister, ACI Arb)

Adjudicator

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