

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1799

Date of Decision: 19 February 2020

Complaint

The company has charged a late payment fee on a nil balance and failed to make proper GSS payments. The bill is therefore not correct. The customer requests a corrected bill so the account can be paid and closed.

Defence

The company issued a bill based on available meter readings and rebilled after the customer supplied an updated meter reading. A late payment fee was applied as the bill was not paid. The customer then disputed the bill and the company rebilled to a different start date. The company denies that the customer is entitled to more than one GSS payment which it has already applied to the account.

Findings

The company's first bill was incorrect. There was no evidence that the second bill was issued to the customer, rather than the account balance emailed to them. The last bill included correct charges, however the late payment fee could not be applied as it related to a bill that had since been withdrawn as incorrect. Four emails were not responded to within 10 working days; the GSS Scheme includes a number of exceptions, none of which I find apply to the customer's correspondence. The company did not pay the GSS payments promptly and penalty charges of £10.00 per payment were therefore also due to the customer. The final bill shall be provided in the terms stipulated in the decision.

Outcome

The company needs to take the following further action:

Issue a final bill to the customer on the terms stipulated in paragraph 24 to 28;

Provide the customer with an apology;

Instruct the removal of any credit file marker, if any, in relation to this account.

The customer must reply by 18 March 2020 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 19 February 2020

Party Details

Customer: []

Customer's Representative: []

Company: [].

Case Outline

The customer's complaint is that:

- The customer submits that the company has charged a late payment fee on a nil balance and is refusing to remove this. It is refusing to pay more than £30.00 in GSS payments but it has been late or not responded to a further three emails. CCWater have agreed with the customer's position.
- The customer requests an apology, the late payment fee to be removed and any adverse credit information expunged, GSS payments as appropriate, and a corrected final bill so that the account can be paid and closed.

The company's response is that:

- The company submits that it was advised on 13 June 2019 that the customer had moved into the property on 27 January 2017. The company received a meter read on 14 June 2019 of 4627 for 4 January 2019. The account was billed up to date and an invoice was generated for £11,733.03. The customer supplied a meter read of 566 for 29 May 2019 on 13 June 2019. The account was rebilled up to date and an email was sent to the customer to advise that the balance was £2856.76. Two payment reminder letters were sent and a late payment was automatically applied to the account on 18 July 2019. The customer next made contact on 8 August 2019 to agree a payment plan. The billing was questioned on 14 August 2019 as the invoice billed past the RF date. The account was rebilled on 27 August 2019 and a new invoice was produced for £2,410.36. The bill was only disputed after the late payment fee had been issued and no payment arrangements had

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been made at that time. GSS payments are only applicable to written correspondence that requires an action and where it is the first time that it has been requested. If correspondence is regarding an ongoing complaint or general query, this will be marked as enquiries and are not GSS payable. The company has made one GSS payment of £20.00 and applied a penalty payment of £10.00; it denies any other GSS payments are due.

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. The customer has brought a claim against the company in respect of billing on the account. The customer submits that the billing was incorrect, that the company wrongly applied a late payment fee, and that the company has not provided the required payments under the Guaranteed Standards Scheme (GSS). As such, the customer's position is that no correct bill has been supplied by the company to date. The company disputes this, submitting that the late payment fee is correct and that GSS payments are only applicable in respect of written correspondence that requires an action and where it is the first time this action is requested.
2. I shall first review the company's billing in order to determine whether a correct bill has been generated. The customer has provided me with two bills. The first is []-INV02[]4. This bill covers the period 27 January 2017 to 1 January 2019 and totals £11,733.03.

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3. In reviewing this bill, I find numerous issues and discrepancies, especially when comparing this to the later invoice, []-INV02[]0. The first invoice is based on numerous estimated meter readings. The only actual readings are listed as a reading of 75 for 21 July 2017, 172 for 1 January 2018, and 2246 on 13 August 2018. The average daily use (ADU) for each period of the bill was below 1 cubic meter per day, until the actual meter reading date of 1 January 2018, where the ADU became 2.13 cubic meters per day. The bill then includes an estimated reading of 1392 for 1 July 2018; there is no explanation for this increase to an ADU of 19.83 cubic meters.
4. In reviewing the second bill supplied by the customer, []-INV02[]0, I note that there is an actual meter reading of 434 on 28 January 2019. It is not clear why this reading was not used for the first bill. Additionally, on 13 June 2019 the customer supplied a meter reading of 566 on 29 May 2019. It is unclear why this reading was not used when the first invoice was calculated.
5. Finally, the company's defence states that the first bill was calculated using a meter reading that it received on 14 June 2019 of 4627, taken on 4 January 2019. The first bill covers dates only as far as 1 January 2019. It is also unclear where this reading may have come from as there is no evidence of such a reading.
6. I therefore find that the first bill was manifestly in error, calculated by reference to incorrect 'actual' meter readings and failing to use two actual readings available to it. It is unclear why the company issued this bill only covering dates up to 1 January 2019, however by limiting the bill to these dates it relied on meter readings that it should have been aware were incorrect.
7. I further note that the company sent an email to the customer on 20 June 2019 advising that the balance on the account was £2,856.76. This is inconsistent with the account balance on the last bill issued by the company at that time. In reviewing the breakdown of bills and credit notes on the account, it appears that the company recalculated the customer's bill on 19 June 2019 to reflect the customer's meter reading. However, it does not appear that this bill was actually issued to the customer.
8. The customer contacted the company on 14 August 2019 to dispute the bill on the basis that it was backdated further than allowed, and to query why the company was advising of a wholly different account balance to that stated on the bill. The company corrected the start date on the bill and issued invoice []-INV02[]0 on 28 August 2019. I have reviewed this bill in full and I am

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satisfied that the charges applied for clean water, used water and surface drainage water are correct.

9. However, this bill includes a late payment charge applied on 18 July 2019. It appears that the late payment charge relates to the customer having not paid either invoice []-INV0[]8 or invoice []-INV0[]9. The first of these invoices was created in response to the meter reading provided by the customer; however, as above, the start date for charges was incorrect and the company withdrew these invoices and issued the corrected invoice of []-INV02[]0.
10. For the avoidance of doubt, the company is not entitled to apply late payment charges in respect of the non-payment of bills that it later withdraws. This is the case irrespective of whether the customer disputed the bill before the payment became due. Simply, the customer is not obliged to pay a bill that is found to be incorrect.
11. I therefore find that, due to the presence of the late payment fee on invoice []-INV02[]0, the customer has never received an accurately calculated bill.
12. Before determining what the final bill should be and directing the company to invoice for only that sum, it is necessary to review whether the customer is entitled to any GSS payments.
13. The company has made one GSS payment for not responding to a contact from the customer in time, and a further £10.00 as the GSS payment was not made on time. It submits that this is the only GSS payment that the customer is entitled to as the payments “are only applicable to written correspondence that require[s] an action and it is the first time that it has been requested”.
14. I find that the GSS Scheme is provided for in The Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008. Section 7 of the Regulation relates to contact from customers and the timescales for a reply.
15. Section 7(1) states that the Regulation applies where a customer “(a) complains in writing about the supply of water or the provision of sewerage services by the undertaker; (b) queries, in writing, the correctness of an account for the supply of water or the provision of sewerage services; or (c) asks, in writing, for a change to payment arrangements”. Where the Regulation applies, the company must provide a substantive reply to the customer within 10 working days in respect of a

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complaint or a query, and 5 working days where the request is to change payment arrangements and the company is unable to meet that request.

16. In the event the company does not comply with the requirement to respond within 10 (or 5) working days, it must pay the customer £20.00 under the GSS. The exceptions to this are provided for at Section 7(6). These include where the customer wrote to an address that was not a notified address of the company for a complaint, query or request; where the customer does not wish to pursue the complaint etc and has informed the company of this; where it was impracticable for the company to send a reply due to industrial action by its employees or the act or default of a third party; or where a complaint or query was “frivolous or vexatious” or where the company reasonably considered that a visit was necessary before replying and severe weather made this impossible.
17. I find that the GSS applies to any and every written contact from a customer that is a complaint or a query. It applies irrespective of whether a question has been asked previously, whether a specific action is requested, or whether that action has previously been requested. Repeated contacts from a customer that raise new issues can be deemed to be vexatious, and thus not give rise to GSS payments, only where the company has advised expressly that it has responded fully to the complaint and will not be responding further unless new matters are raised.
18. I have therefore reviewed all correspondence in order to determine whether the company met the requirement to respond within 10 working days and, additionally, whether a late payment penalty of £10.00 is applicable. For the avoidance of doubt, the late payment penalty will apply only once, irrespective of the length of the delay before the GSS payment was made.
19. I find that the customer sent an email to the company on 14 August 2019; this was responded to on 13 September 2019, after the customer sent a chaser email on 9 September 2019. The company has paid £20.00 GSS in respect of this late response, and provided a further £10.00 as the payment was not made within 10 working days of the GSS becoming payable on 11 September 2019.
20. The customer sent a further email to the company on 18 September 2019. This was chased on 3 October, 10 October and 17 October 2019. The company responded to the customer on 22 October 2019. I find that this was more than 10 working days from the contacts of 18 September and 3 October 2019. I am therefore satisfied that a further £20.00 GSS payment is due for each

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incidence and a late payment fee of £10.00 is also due for each late contact. This is a total of £60.00.

21. Finally, the customer's email of 23 October 2019 was not responded to by the company. After this time the customer referred her claim to CCWater. I find that a further £20.00 and £10.00 penalty is due for the failure to respond to this contact.

22. I therefore find that the customer is entitled to a total of £120.00 in GSS payments, inclusive of the £30.00 in payments already accepted by the company. I note that the GSS and penalty payments that have been provided to the customer exist only as a credit on the account. I shall therefore consider all GSS payments when directing the company to issue the final bill.

23. The customer has requested that the late payment fee is removed and any adverse credit information is removed from the customer's credit file, that the company pay GSS payments as appropriate, and that it issue a corrected final bill. I find that the customer is entitled to this.

24. I therefore direct the company to issue the customer with a final bill as follows:

Reference	Description	Charge	VAT	Credit
1 March 2018 to 1 April 2018	Metered Water Charges	£ 23.46	£ 4.69	
1 March 2018 to 1 April 2018	Water Fixed Charges	£ 3.71	£ 0.74	
1 March 2018 to 1 April 2018	Water Standing Charge	£ 0.29	£ 0.06	
1 March 2018 to 1 April 2018	Used Water Charges	£ 16.44	£ -	
1 March 2018 to 1 April 2018	Used Fixed Charges	£ 2.01	£ -	
1 March 2018 to 1 April 2018	Surface Water Drainage	£ 47.88	£ -	
1 March 2018 to 1 April 2018	Surface Water Fixed Charge	£ 2.01	£ -	
1 March 2018 to 1 April 2018 Total		£ 95.80	£ 5.49	£ -
1 April 2018 to 1 April 2019	Metered Water Charges	£ 415.56	£ 83.11	
1 April 2018 to 1 April 2019	Water Fixed Charges	£ 46.16	£ 9.23	
1 April 2018 to 1 April 2019	Water Standing Charge	£ 5.65	£ 1.13	
1 April 2018 to 1 April 2019	Used Water Charges	£ 273.09	£ -	
1 April 2018 to 1 April 2019	Used Fixed Charges	£ 24.59	£ -	
1 April 2018 to 1 April 2019	Surface Water Drainage	£ 579.94	£ -	
1 April 2018 to 1 April 2019	Surface Water Fixed Charge	£ 24.59	£ -	

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Reference	Description	Charge	VAT	Credit
1 April 2018 to 1 April 2019 Total		£ 1,369.59	£ 93.47	£ -
1 April 2019 to 19 August 2019	Metered Water Charges	£ 261.93	£ 52.39	
1 April 2019 to 19 August 2019	Water Fixed Charges	£ 18.96	£ 3.79	
1 April 2019 to 19 August 2019	Water Standing Charge	£ 3.01	£ 0.60	
1 April 2019 to 19 August 2019	Used Water Charges	£ 192.12	£ -	
1 April 2019 to 19 August 2019	Used Fixed Charges	£ 10.17	£ -	
1 April 2019 to 19 August 2019	Surface Water Drainage	£ 222.88	£ -	
1 April 2019 to 19 August 2019	Surface Water Fixed Charge	£ 10.18	£ -	
1 April 2019 to 19 August 2019 Total		£ 719.24	£ 56.78	£ -
GSS Payments	14/08/2019			£ 20.00
GSS Payments	18/09/2019			£ 20.00
GSS Payments	03/10/2019			£ 20.00
GSS Payments	23/10/2019			£ 20.00
GSS Payments Total		£ -	£ -	£ 80.00
GSS Penalty	14/08/2019			£ 10.00
GSS Penalty	18/09/2019			£ 10.00
GSS Penalty	03/10/2019			£ 10.00
GSS Penalty	23/10/2019			£ 10.00
GSS Penalty Total		£ -	£ -	£ 40.00
Grand Total		£ 2,184.63	£ 155.75	£ 120.00
Total Sum Payable		£ 2,220.38		

25. In the customer's comments, they state that they are not eligible to pay VAT on water use by way of having an exception under the 1980 Standard Industrial Classification (SIC) Code, Division 9,

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entry 956, Veterinary Practices and Animal Hospitals. I am mindful that the company requires customers that benefit from an exception to VAT to complete a form to include the correct SIC code. Until confirmation of the code is received, the company will include VAT on all invoices.

26. It does not appear from the evidence that the customer has completed and submitted this form to the company. As such, I am not able to direct the company to remove the VAT from the water charges on the customer's bill.
27. However, I am mindful that the customer may benefit from this exemption. I therefore direct that the company shall bill the customer the total sum of £2,220.38 including VAT. However, should the customer complete and return the form, available on the company's website at <https://admin.1strategic/media/PDFs/VAT-Declaration-Form.pdf>, within 30 days of the date the customer accepts the decision, and where the company is satisfied that the customer is therefore exempted from paying VAT on water services, it shall remove the VAT and reissue the bill in the sum of £2064.63. For the avoidance of doubt, if the customer chooses to submit the form applying for the exemption, it will remain a decision for the company as to whether this exemption should apply to the customer's bill; the company will only be obligated to remove the VAT in the event that the customer's application for the exemption is successful.
28. The company shall provide the customer with a period of 30 days from the date the customer accepts this decision to make payment of the sum of £2,220.38, or to set up a payment plan with the agreement of the company to pay this sum. However, should the SIC form be provided within this time, the company shall provide the customer with 30 days from the date of the reissued bill to make the payment or set up a payment plan with the agreement of the company.
29. I also direct that, should the company have applied any credit markers to the customer's credit file in respect of this matter, it shall instruct the removal of such markers.
30. The customer has also requested an apology and I find this to be reasonable. I therefore direct that an authorised representative of the company provide the customer with a written apology for not utilising the latest actual meter readings to generate the customer's bill, for applying a late payment charge in relation to an incorrect bill, and for not responding to the customer's correspondence within the 10 working day timescale.

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Outcome

The company needs to take the following further action:

Issue a final bill to the customer on the terms stipulated in paragraphs 24 to 28;

Provide the customer with an apology;

Instruct the removal of any credit file marker, if any, in relation to this account.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 18 March 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.



Alison Dablin, LLM, MSc, MCI Arb

Adjudicator

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