

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1571

Date of Decision: 27 January 2020

Complaint

The customer states that flooding in the cellar at her home, [], is the responsibility of the company. She states that the company has accepted responsibility for the same problems in her neighbour's houses and that it has carried out work for them and has made an out of court settlement. She states that the company should facilitate independent testing and arrange for the cellar to be pumped out.

She seeks a direction that the company should carry out an independent test, pump the water out of the cellar and repair any damage.

Defence

The company states that it is aware of a long running problem at the customer's home and that it has carried out all relevant and necessary investigations. It states that it is not liable for the flooding as the water is ground water and not within its responsibility.

It makes no offer.

Findings

I do not find, based on the evidence that any liability on the part of the company has been shown by the customer for the ongoing flooding in her cellar. I find that the company has fulfilled its legal obligations and has acted appropriately,

Outcome

The company does not need to take any further action.

The customer must reply by 24 February 2020 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1571

Date of Decision: 27 January 2020

Party Details

Customer: [].

Company: [].

Case Outline

The customer's complaint is that:

- There is an issue with the water supply at her home, []("the Property").
- There is flood water in the cellar at the Property and this is a longstanding complaint.
- The connecting properties also have the same problem and work has been carried out by the company to address this issue in neighbour's properties.
- Independent testing at a neighbouring property showed that the water belonged to the company.
- She states that the company settled out of court with her neighbour.
- She claims that the company carried out dye testing and found that it was responsible for the water in connecting cellars.
- The customer seeks a direction that the company should carry out an independent test, pump the water out of the cellar and repair any damage.

The company's response is that:

- There is a longstanding problem with flooding on Acre Street, where the Property is located.
- Investigations have shown that this problem is caused by ground water and not water from its own assets.
- Investigations have shown natural springs in the area and a filled in well at the Property.
- The company states that it cannot discuss individual cases regarding the neighbours but confirms that a pump was installed in the neighbouring property at the lowest level.
- It states that this was a good will gesture and not an admission of liability.

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- It states that this pump benefits all the properties.
- It denies it has made any “out of court settlements”.
- All testing is sent to an independent lab and there is no need to obtain further independent testing.
- It is not liable for ground water and it believes that the customer’s problems are caused by groundwater.
- No offer is made.

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.

Please note that 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. This decision is evidence based and is made on the information sent to me by the parties.
2. The customer claims that there is a flooding problem in the Property’s cellar and that the company has failed to address this issue for which it is responsible. The company states that it accepts that the customer’s Property has a long-standing flooding issue but asserts that its investigations show that the problem is caused by groundwater and states that it is not liable in these circumstances.

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3. The customer claims that the company has had similar issues with neighbour's and has settled a claim out of court with another neighbour. The company has denied this assertion and states it has not made any out of court settlements in relation to this problem. There is no evidence submitted to support this aspect of the customer's claim. In any case, I take into account that each case would rest on its own merits and must be judged separately.
4. The customer states that there has been work done on neighbouring properties to address the flooding problem. The company accepts that it has installed a pump in a neighbour's property as it was the property at the lowest point. The company states in its defence: "*The pump was installed as a gesture of goodwill and is of benefit to all the residents as it removes water that flows into the cellar at the lowest point, in turn keeping the levels in the other cellars as low as possible.*" In the absence of any contrary information, and in light of the fact that the customer has not challenged this in reply, I accept that the work done by the company was carried out as a goodwill gesture and was not due to any obligation or liability being accepted.
5. The customer states that there was independent testing done on a neighbouring property which showed that the flood water belonged to the company. This is not evidenced in the papers. The company has stated that it cannot divulge information regarding other properties due to Data Protection issues.
6. The customer claims that an independent testing of the water in her cellars would show that the water is from the company's assets and that, therefore, it is liable for the flooding. The company states that it has carried out investigations over the years and has used dye testing and a camera to ascertain the source of the water ingress. It states that the testing shows that the water is neither waste nor mains and that the source is groundwater.
7. The company has stated that there is a filled in well at the Property and that there are also natural springs in the area and that these are more than likely the cause of the flooding in the Property and the neighbouring properties. The customer has not challenged this in reply.
8. The evidence submitted by the customer shows correspondence going back to 2014. I note that this must be a difficult and stressful problem for the customer to have to deal with. Nothing in this direction in meant to undermine the veracity and sincerity of the customer in her application. However, I can only find that the company is liable if the evidence indicates that there is good

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reason to accept that the water is coming from its assets and that it has not acted appropriately with regard to the complaint.

9. I take into consideration that the company has, based on the evidence supplied, carried out adequate testing and investigated the problem in a manner consistent with its obligations. I note that the company has already explained that the testing of the water supply is carried out by an independent third party. It has also stated that if the customer wishes to get her own tests carried out it will look at the results of those tests. I am persuaded that the company's actions are in keeping with industry standards. I have not been directed to any breached of legislation and I do not find any myself.
10. It follows that 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. This claim, therefore, 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 24 February 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.

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

J J Higgins, Barrister, ACI Arb.

Adjudicator

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