

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1591

Date of Decision: 23 October 2019

Complaint

The customer purchased two flats, 10A and 10B [] (“the Properties”) on 29 June 2018 and the Properties are currently undergoing renovation. They were unoccupied and water was not being used between 29 June 2018 and May 2019. The company requested meter readings when the customer purchased the Properties, but the meters are in the street, under a cover that the customer was unable to lift, so he engaged a plumber to gain access to the meters and take the necessary readings. As the customer was unable to supply meter readings to the company when he first purchased the Properties, he received estimated bills. The customer disputes these bills because they are based on the usage of the previous occupiers and, therefore, are not accurate. In any event, the customer did not sign a contract for the company to be his water supplier. The customer wants the company to waive the estimated bills of £52.98 and £97.54, for flats 10A and 10B respectively, and refund the costs incurred as a result of the plumber reading the meters.

Defence

Section 143 of the Water Industry Act 1991 gives the company the power to set a Charges Scheme. The previous occupiers of the Properties did not provide the company with meter readings when they vacated, and the customer did not provide readings when he purchased the Properties. Therefore, in line with its Charges Scheme, the company issued the customer with estimated bills. When the company calculates estimated bills, it does so based on an occupier's previous consumption. It is confident that the closing readings used for the previous occupiers' accounts, and the opening readings used for the customer's accounts, are correct. In accordance with the company's Charges Scheme, as the Properties are being renovated and water usage has been recorded on both meters, charges raised to the customer's accounts are correct and payable. Therefore, it will not waive the bills. The plumber's invoices supplied by the customer do not itemise the cost of the meter reading but, in any event, it will not refund this cost as it offers to read customer's meters free of charge when requested to do so. However, the customer did not contact the company until seven months after both accounts had been opened. Therefore, it is also unable to consider the customer's claim for a reimbursement of the plumber's fee.

The company has not made an offer of settlement.

Findings

I accept that under the company's Charges Scheme, and in the absence of an actual meter reading supplied by the customer when he purchased the properties, or the previous occupants when they vacated, the company was entitled to estimate the customer's opening meter readings and send the customer bills based on these estimates. Therefore, I cannot find that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person in this regard. I also find that the Charges Scheme entitles the company to charge for its services where water is used at an unoccupied property and where an unoccupied property is being renovated. Having reviewed the evidence, I accept that the Properties were being renovated and water was being used from 29 June 2018. Therefore, I cannot find that the company's refusal to waive the charges amounts to a failing on the company's behalf; the company is entitled to charge for water services in accordance with Section 144 of the Water Industry Act 1991 and, having reviewed the bills provided by the company, I find that, on the balance of probabilities, the charges are correct and payable by the customer. With regard to the customer's claim for a reimbursement of his plumber's bill; there is no evidence to demonstrate that the customer contacted the company about the problems he encountered when he attempted to read the meters until seven months after he purchased the Properties. Furthermore, I accept that the company would most likely have read the meters free of charge if the customer had raised the issue. In view of this, I find no failing on the company's behalf and, therefore, the customer's claim for a reimbursement of the plumber's bill cannot succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 20 November 2019 to accept or reject this decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1591

Date of Decision: 23 October 2019

Party Details

Customers: []

Company: [].

Case Outline

The customer's complaint is that:

- He purchased two flats, 10A and 10B [] on 29 June 2018. The Properties are undergoing renovation but between 29 June 2018 and May 2019 the flats were unoccupied, and no water was used.
- He was told to take meter readings when he purchased the Properties. However, the meters are in the street, under a cover that he was unable to lift, so he engaged a plumber to access the meters and take the necessary readings. The plumber discovered that one of the meters had sunk and was covered in water; it had to be drained out before a reading could be taken.
- As he was unable to take meter readings when he first purchased the Properties, he received bills based on the usage of the previous occupiers; £52.98 for Flat 10A and £97.54 for Flat 10B.
- He disputes these charges on the basis that he should not be billed based on the usage of the previous occupiers when he was unable to read the meters. The meters were only accessible by a professional and, even when they were accessed, they could not be read because they were waterlogged and needed to be drained.
- Furthermore, he did not sign a contract for the company to be his water supplier and, as his name is misspelt on the bills, he should not be responsible for paying them anyway.
- He wants the company to waive the bills of £52.98 and £97.54 and refund an unspecified sum for the plumber's fee.

The company's response is that:

- Section 143 of the Water Industry Act 1991 gives it the power to set a Charges Scheme.
- Page 8 of its Charges Scheme 2018/19 states;

“Charges for metered supplies

5 (1) There shall be payable to RST Water in respect of water supplied to a customer by meter, an amount equal to the sum of the following charges: the volume charge in (a) below; plus the graduated fixed charge in (b) below; PROVIDED ALWAYS and subject to the provisions of subclause 15(4) that where the customer is a Vulnerable Customer, the maximum amount payable under this sub-clause 5(1) shall be the WaterSure Tariff as administered under the WaterSure Scheme.

(a) Volume charge - The amount produced by multiplying the volume of water supplied as measured by the meter or as estimated (where estimates are permitted under this Charges Scheme) by a rate per cubic metre as shown in the Charges Schedule.

(b) Graduated fixed charge - A graduated fixed charge in respect of each pipe which issued for the water supply to the customer, the amount of which is shown in the Charges Schedule.”

- Page 16 of its Charges Scheme states;

“Payment of charges for metered supplies

11 (1) The charges calculated for metered supplies shall be due and payable when the volume of water supplied has been ascertained and a bill in respect thereof issued; provided that consumers may choose to pay such charges by monthly instalments (the actual date payable to be agreed with RST Water). The instalment will be calculated by RST Water on the basis of their estimates and will be adjusted in due course when actual meter readings are taken. Consumers who find it easier to pay more frequently (such as fortnightly) may do so by agreement with RST Water.

(2) Where the consumer has chosen to pay by instalments and any such instalment is not paid by the date it is payable, then the whole of the metered charges then remaining unpaid shall thereupon become payable.

(3) The record by the meter of the volume of water supplied shall be taken by RST Water as nearly as practicable on the corresponding day of each billing period. Where a reading is not taken for any reason RST Water may calculate a bill based on an estimate of the volume of water supplied. Where a bill has been calculated on the basis of such an estimate, the consumer may read the meter himself and provide the reading to RST

Water. Provided the consumer provides such a meter reading within 28 days of the date of the bill, RST Water shall issue an amended bill based on that reading. A billing period shall not normally exceed one year.”

- The previous occupiers of the Properties did not provide meter readings when they vacated, and the customer did not provide readings when he purchased the Properties. In line with section 11(3) of its Charges Scheme, it was therefore entitled to calculate an estimated bill. When it calculates estimated bills, it does so based on an occupier/account holder’s previous consumption.
- It is unable to provide the previous occupiers’ meter readings due to GDPR adherence. However, it has a very good reading history for each flat and consumption has always remained consistent. As such, it is confident that the closing readings used for the previous occupiers’ accounts, and the opening readings used for the customer’s accounts, are correct.
- Pages 19 and 20 of the Charges Scheme details charges levied when a property is unoccupied;

“Charge variations for empty properties

14 (1) Subject to sub-clause (4) no charges will be payable in respect of:

(a) unmetered supplies under clause 4; and

(b) fixed charges for metered supplies in respect of any period during which the consumer is able to demonstrate to the reasonable satisfaction of RST Water that the premises are both unoccupied and unfurnished.

PROVIDED ALWAYS that should RST Water become aware that water is being used at that premises (which includes any usage by way of leakage) all relevant charges will be payable.

(2) Unoccupied premises will not be regarded as unfurnished for the purposes of 14 (1) if they are:

(a) subject to building or renovation works;

or

(b) newly built premises prior to transfer of ownership from the builder.

(3) No charges will be payable in respect of:

(a) unmetered supplies under clause 4; and

(b) fixed charges for metered supplies under clause 5(1)(b) in respect of any continuous period of three months or more during which the consumer is able to demonstrate to the reasonable satisfaction of RST Water that the premises are unoccupied and the

customer is living in a care home or nursing home.

(4) The above charging variations for empty properties will only apply to the period during which this scheme is in force and must be claimed by the customer. No claim will be allowed for any period more than 6 months prior to the date of the claim.”

- In view of the above, and because water usage has been recorded on the meters of both 10A and 10B Green Way, charges raised to the customer’s accounts are payable.
- Furthermore, it found information available in the public domain which shows an application has been made to the Local Authority to convert the Properties into one dwelling. This constitutes ‘building or renovation works’ and, as such, in line with its Charges Scheme, it has correctly charged the customer for its services.
- The customer telephoned on 14 January 2019 to dispute the charges raised for flat 10A Green Way and the agent who took the call incorrectly closed the account as of the date it had been opened, clearing the charges outstanding. As detailed in its letter to the customer’s representative, dated 22 February 2019 but sent 27 March 2019, in accordance with its policy as set out in its Charges Scheme, it opened another account for services at 10A Green Way with effect from 29 June 2018. Accordingly, the customer currently has the following water services charges accounts; 52[]02 for 10A Green Way opened with effect from 29 June 2018, and 83[]20 for 10B Green Way opened with effect from 29 June 2018.
- The following bills have been sent on account number 52[]02; a bill dated 27 March 2019 for the period from 29 June 2018 to 20 November 2018 for £52.98, and a bill dated 23 May 2019 for the period from 21 November 2018 to 15 May 2019 for £44.13. No payments have been received to this account.
- The following bills have been sent on account number 83[]20; a bill dated 22 November 2018 for the period from 29 June 2018 to 20 November 2018 for £97.54, and a bill dated 14 June 2019 for the period from 21 November 2018 to 15 May 2019 for £48.42. On 10 July 2019 it received a payment of £48.42 to this account, leaving a balance of £97.54.
- As the charges raised on both accounts are correct and comply with its Charges Scheme, it will not waive the bills.
- In line with Ofwat’s guidelines, bills are escalated through its debt recovery process individually. Both bills raised on account number 52[]02 are now being pursued by an external debt recovery agent on its behalf. The bill dated 22 November 2018 for £97.54, issued on account number 83[]20, is now also being pursued by an external debt recovery agent. It is in the customer’s interest to make full payment or to arrange a

payment plan as soon as possible, as continued non-payment may harm his credit rating.

- The customer has also requested a reimbursement of his plumber's costs but the invoices supplied to support the claim do not itemise the cost of the meter reading.
- It accepts that it most likely asked the customer to read the meters, if it was possible to do so, when he purchased the properties. However, a flat-headed screwdriver is usually all that is required to open an ATPLAS box, which is the type of box the meters are contained in. It is not uncommon for ATPLAS boxes to be full of water, as they are below ground level and not watertight. However, if the customer had called to say that he was unable to pump or scoop the water out of the ATPLAS box, it would have attended the customer's property and read the meter free of charge.
- Unfortunately, the customer did not complain about the problems he encountered while trying to read the meters until seven months after the accounts had been opened. In view of this, it is also unable to consider the customer's unsubstantiated claim for a refund of the plumber's costs.
- The spelling of the customer's name on both accounts was incorrect and it apologises to the customer for this mistake. It no longer has audio recordings of the telephone calls made by the previous owner/occupiers of the Properties, or calls made by the customer, but it could be that it was provided with the customer's name incorrectly or that the agent taking the call spelt the customer's name incorrectly. The error has been rectified and future bills will show the correct spelling.

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. Section 143(1) of the Water Industry Act 1991 states:

“A relevant undertaker may make a scheme (“a charges scheme”) which has effect in relation to a specified period of twelve months and does any one or more of the following, that is to say—

(a) fixes the charges to be paid for any services provided by the undertaker in the course of carrying out its functions;

(b) in the case of a sewerage undertaker, requires such charges as may be fixed by the scheme to be paid to the undertaker where, in the circumstances set out in the scheme—

(i) a notice containing an application for a consent is served on the undertaker under section 119 above;

(ii) such a consent as is necessary for the purposes of Chapter III of Part IV of this Act is given by the undertaker; or

(iii) a discharge is made in pursuance of such a consent; and

(c) makes provision with respect to the times and methods of payment of the charges fixed by the scheme.”

2. I therefore accept that under the above provisions of the Water Industry Act 1991, the company is entitled to set a Charges Scheme.
3. The customer purchased 10A and 10B Green Way, [] on 29 June 2018. The company sent the customer an estimated bill for £52.98 to 10A Green Way, [], dated 27 March 2019, for the period from 29 June 2018 to 20 November 2018. The company also sent the customer an estimated bill for £97.54 to 10B Green Way, [], dated 22 November 2018, for the period from 29 June 2018 to 20 November 2018.
4. The customer disputes these bills on the basis that they were calculated using the previous occupiers’ usage and are not accurate. He also states that he did not sign a contract with the company for the supply of its services and, therefore, he is not obliged to pay for them. He wants the company to waive these bills.

5. With regard to the customer's claim that he was not in a contractual relationship with the company; the evidence demonstrates that the customer used the water supplied by the company after he purchased the Properties and, therefore, I find that by his conduct, the customer accepted to be bound by the company's terms and conditions and a contractual relationship between the customer and the company was formed. It therefore follows that, despite the fact the customer did not sign a contract, the company is entitled to charge the customer for its services.
6. Having reviewed the evidence provided by the parties, I accept that under section 11 of the company's Charges Scheme, cited above, and in the absence of actual meter readings supplied by either the customer when he purchased the Properties, or the previous occupiers when they vacated the Properties, the company was entitled to estimate the customer's opening meter readings and send the customer bills based on those estimates. I therefore find no failing on the company's behalf in this regard.
7. I also accept that opening estimates are calculated using the consumption of the previous occupants, and that data protection laws prevent the company from disclosing specific details regarding the previous occupants' usage for the purposes of this adjudication.
8. Having considered sections 14(1) of the company's Charges Scheme, I find that the company is entitled to charge for its services where water is used at an unoccupied property. Furthermore, section 14(2) allows the company to charge a customer where an unoccupied property is being renovated.
9. The customer states that the Properties were unoccupied from the 29 June 2018 to an unspecified date in May 2019 and accepts that the Properties are being renovated. The company states that water was being used at the Properties from 29 June 2018 and that the Properties are being converted into one dwelling.
10. Section 144 of the Water Industry Act 1991 entitles the company to charge the customer for water consumption and, in view of the evidence provided, and in particular the customer's bills showing actual meter readings, I accept that water was being used at the Properties. In light of the customer's comments, I also accept that the Properties were being renovated by the customer. Therefore, I do not find that the company has failed to provide its service to the standard reasonably expected by the average

customer by charging the customer for water consumption at the Properties from 29 June 2018.

11. Furthermore, having reviewed the bills provided by the company, I find that, on the balance of probabilities, the charges are correct and payable by the customer.
12. The customer also states that the company has not used his correct name on the bills and, therefore, they are not payable by him. The company accepts that an error was made and has apologised for it. The reasons for the error are not fully clear but, having considered the matter, I find that the customer could have contacted the company to correct the error when it was first made. In any event, under the Water Industry Act 1991 the customer, as the owner and sole occupier of the Properties, is responsible for paying the bills, regardless of the name on them. I therefore find no failing on behalf of the company in this regard.
13. In view of the above, whilst I understand that this is not the outcome the customer hoped for, I cannot direct the company to waive the customer's estimated bills of £52.98 and £97.54. It therefore follows that the customer's claim in this regard does not succeed.
14. The customer also claims an unspecified sum for a plumber to take meter readings. The customer explains that the water meters are located in the street, under a cover he could not open, so he instructed a plumber to access and read the meters. One of the meters was waterlogged and could not be read until the water had been drained away.
15. The company states that the meters are contained in ATPLAS boxes which can normally be opened with a flat-head screwdriver. It explains that underground meters often get waterlogged and it is sometime necessary to pump or scoop out the water before readings can be taken. It states that, if the customer had contacted it and explained that the meters could not be accessed or read, an engineer would have been sent to read the meters free of charge. However, the customer did not contact the company until seven months after he had purchased the Properties.
16. I accept that there is no evidence to demonstrate that the customer raised an issue regarding his ability to read the meters until seven months after he had purchased the Properties. I also accept that, had he raised the issue with the company, the company would have read the meters free of charge. In view of this, I cannot find that the

company has failed to provide its services to the customer to the standard to be reasonably expected by the average person. I appreciate that this decision is likely to disappoint the customer but, in view of the above, the customer's claim for a reimbursement of the plumber's bill cannot succeed.

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 20 November 2019 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.

KS Wilks

Katharine Wilks

Adjudicator