

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1604

Date of Decision: 03/10/2019

Complaint

The customer has a dispute with the company regarding the replacement of a damaged sewer pipe serving his property. The blocked pipe was the result of a dip in the pipe allowing unsuitable material to build up causing overflow to the toilet inside his house. The company has been undertaking monthly mitigation measures but the customer seeks a permanent solution to the issue by the re-laying of the pipe. His request to WATRS is for the pipe to be replaced.

Defence

The company states that it acknowledges the damaged pipe must be replaced to ensure functionality. It states it has explained to the customer the reasons for delaying the replacement of the pipe, but has now confirmed it has secured the necessary funds and it will advise prior to 21 October 2019 of when the work be carried out. The company asserts that, meanwhile, the monthly mitigation measures will continue until the pipe is re-laid, and it notes no blockages have been recorded since commencement of the mitigation activities. The company has not made any offer of settlement to the customer, but it believes it has now facilitated the customer's request.

Findings

I am satisfied the company acted reasonably in its dealings with the customer. I am further satisfied with its commitment to funding the necessary works and in its intent to announce prior to 21 October 2019 the date for commencing the pipe replacement. I find the company has managed the customer's account and complaint with a reasonable level of skill and care, and thus, I find the company has not failed to provide its services to the extent to be reasonably expected by the average person.

Outcome

The company needs to take no further action

The customer must reply by 31/10/2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1604

Date of Decision: 03/10/2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The customer claims he has experienced an ongoing dispute with the company regarding an intermittently blocked toilet at his mother's house which he believes is caused by a failure in the public sewer system, and identifies the location of the problem to be under the conservatory of a neighbouring property. Despite the customer's ongoing communications with the company and the involvement of CCWater, the dispute has not been settled.
- The customer states that he has raised the complaint with the company on behalf of his mother who is the owner of the affected property, and that he possesses a lasting power of attorney on behalf of his mother.
- The customer asserts he first contacted the company in February 2018 to complain that the downstairs toilet in his mother's property was blocked and was overflowing into the room. The customer explained to the company that his mother is severely ill, wheelchair bound, and thus cannot make use of toilet facilities other than on the ground floor of the house.
- The customer further asserts that the company attended his property and cleared the pipe and after investigation discovered a blockage was occurring in the sewage pipe which is shared with a neighbouring property. Additional investigation located the likely site of the blockage to be directly underneath the conservatory of the neighbouring property.

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- The customer asserts that he had many contacts with the company during the months of April and May 2018, and on one occasion complained to the company that its onsite team had accused his mother of blocking the sewer pipe with unsuitable material. He further understands that the company was undertaking additional investigations and surveys during this period.
- The customer states that on 15 December 2018, he called the company to complain that the downstairs toilet was again blocked and backing up into the room. The customer states that the company sent a team the following day and again cleared the blockage, but he complained to the company that he understands a survey was undertaken in May 2018 but no further action has been taken. He was not advised of the result of the survey and what subsequent action was intended.
- The customer notes that since February 2019 the company has been undertaking regular mitigation measures to ensure the toilet at his mother's property does not get blocked again. However, he is not satisfied with simply taking mitigation measures and believes that only a re-laying of the damaged pipe will suffice to clear the problem on a permanent basis. The customer believes that the company has no current plans to re-lay the pipe.
- The customer asserts that should his mother's illness deteriorate she may be forced in to a care home and that her property would have to be sold to pay the costs. The customer states he is concerned that the ongoing blocked sewer pipe issue will have a negative effect on the potential sale price of the property.
- The customer, dissatisfied with his interactions with the company, escalated his dispute, on or around 02 June 2019, to CCWater who took up his case with the company on his behalf. The customer advised CCWater that his dispute with the company had been ongoing for more than twelve months and he believed that it should give priority to elderly customers with disabilities. Additionally, the customer complains to CCWater that he has had a poor level of customer service from the company, particularly regarding the company not conforming to his requests for it not to arrive at the property unannounced and to use him as the only point of contact. However, the customer records that, despite the intervention of CCWater, the dispute is ongoing and the company has not revised its standpoint and CCWater are unable to facilitate a resolution between the parties.
- The customer remains dissatisfied with the response of the company and consequently, on 06 September 2019, has referred the matter to the WATRS Scheme whereby he seeks to have the company apply full resolution to the ongoing problem rather than continued mitigation measures.

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The company's response is that:

- The company submitted its Defence paper to the claim on 17 September 2019.
- The company confirms that it received a call from the customer on 18 February 2018 to inform it that there was restricted toilet use in the property of his mother. The company asserts it sent a team to investigate on the same day, that it cleared the blockage and upon investigation identified a large dip in the sewer pipe that belongs to the company.
- The company states that it undertook several camera surveys and levelling work to the sewer and identified the large dip is located under the conservatory of a neighbouring property, and the company acknowledges that the pipe should be re-laid.
- The company further acknowledges that the customer contacted it on 05 December 2018 to report that again the ground floor toilet was blocked. As before, the company sent a team to clear the blockage and asserts that following this second incident of pipe blockage it commenced, as from February 2019, monthly mitigation measures. This includes flushing to remove fat and unsuitable materials that may build up at the dip thus causing a blockage, and it asserts that since commencing these measures there has been no further report of any pipe blockage.
- The company states that it is aware that the customer would prefer the re-laying of the pipe rather than continue with the mitigation measures. However, the company asserts that it has explained to the customer the restraints it has in respect of budget, accessibility, and complex civil engineering issues. Additionally, the company must give priority to dealing with problems where mitigation measures are not possible.
- The company confirms that it has taken note of the customer's comments regarding prioritising customers who may be elderly, disabled and vulnerable. The company asserts that it has advised the customer that he may register his mother on its Priority Services Register such that the company may prioritise her in respect of a range of services, including but not restricted to, ensuring the mitigation measures are continued effectively. The company notes that the customer has not entered the occupier on the Register.
- The company states that it is unable to comment on the customer's assertion regarding the value of the property should it be sold.
- Regarding the customer's complaint of a poor level of customer service, the company acknowledges that it failed to provide both the customer and CCWater with regular updates regarding the availability of funding to re-lay the damaged pipe. The company further

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acknowledges that it did attend upon the premises without giving prior warning to the customer, and states that it has now put in place a warning mechanism on the customer's account stating that no visits should be made without prior notice to the customer who shall be recognised as the sole point of contact. The company offers the sum of £250.00 as a gesture of goodwill for this oversight.

- In summary, the company believes it has acted reasonably and taken all possible measures to assist the customer. The company asserts that it has now secured funding to allow the damaged pipe to be replaced and once the date for commencing the works is known it will advise the customer in good time. The company states it will issue an update on the expected commencement date on or before 21 October 2019, and meanwhile will continue the mitigation measures.

The customer's comments on the company's response are that:

- The customer has submitted comments on the company's Defence document. He advises that his mother's health has deteriorated to the extent that she has permanently moved from the property. The customer asserts that he has had no recent contact from the company regarding any updates on the situation.

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.

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I have carefully considered all 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 dispute relates to the customer's dissatisfaction over the company failing to replace a damaged pipe that was first identified in February 2018.
2. I note that the WATRS adjudication scheme is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
3. Based on my review of all the available information, I am satisfied that the main issue of this WATRS Application stems from whether the company has acted reasonably in its procedures and whether it has delayed unreasonably in replacing the pipe. I note that the customer, in his application to the WATRS Scheme, has requested neither compensation nor apology, but has requested, rather vaguely, "full resolution to the problem". I understand this to mean that he would prefer the company to replace the damaged pipe as soon as possible rather than continue indefinitely with the current mitigation measures.
4. I note from the documents laid before me that the company has acknowledged that the pipe needs to be replaced to ensure long term functionality, and that it has secured the necessary funds to undertake the work. I also note the company has commenced the procedure to have the engineering works carried out and undertakes to provide on or before 21 October 2019 the customer with a date for when the work will commence.
5. It is outside the jurisdiction of this adjudication for me to direct exactly when the company shall undertake this work. I am satisfied that it has acted reasonably in securing suitable funding and setting in motion the procedure to have the physical work done. Thus, in this respect I find that the company has not failed to provide its services to the customer to the standard to be reasonably expected by the average person.
6. The customer has also referred to both CCWater and WATRS that he believes he has received a poor level of customer service from the company while dealing with the damaged pipe problem. I note that the company has accepted it displayed shortfalls in its customer service when dealing with the customer, and has apologized and offered the sum of £250.00 as a gesture of goodwill. Again, I find this to be reasonable, particularly as the customer has not requested such actions.

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7. In summary, I have found no failure by the company to provide its services to the standard to be reasonably expected. The customer requested full resolution to the issue of the damaged pipe and I find that the company is now dealing proactively and reasonably to replace the pipe. I am satisfied that this is in accordance with the customer's wishes. Similarly, the customer has highlighted poor customer service, however, the company has apologized for customer service lapses and has offered a goodwill gesture in compensation.
8. My conclusion on the main issues is that the company has not failed to provide its services to a standard to be reasonably expected by the average person, and therefore, my decision is that the claim has been satisfied by the company's recent actions.

Outcome

The company does not need to take further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 31/10/2019 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.



Peter R Sansom
MSc(Law); FCI Arb; FA Arb;
Member, London Court of International Arbitration.
Member, CI Arb Business Arbitration Panel.
Member, CEDR Arbitration Panel.

Adjudicator

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