

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1847 – Billing & Charges – Surface Water Drainage

Date of Decision: 8 April 2020

Complaint

The customer contacted the company in August 2019 to request that he be placed on a lower surface-water drainage band because he uses very little water and the charges are excessive for a business of his size. The customer submits that some of the business units on his site do not even pay (or pay less) for surface-water drainage. The issue was referred to the wholesaler (XWholesaler) who carried out a site survey and whilst the site area was marginally reduced, this was not sufficient to change the customer's surface-water drainage banding (it remained as a band 3). The customer argued that water drains from his premises into a brook. However, the wholesaler explained that this did not matter as the water was transported through its sewer to get to the brook. The customer states that he is also concerned about potential flooding incidents from the brook and he has been signposted to the Environment Agency to pursue this matter. The customer still maintains that he should be charged less for surface-water drainage. Consequently, the customer's claim is for his surface-water drainage charges to be reduced and his outstanding charges for this to be written off.

Defence

The company has challenged the wholesaler's position on behalf of the customer (in its capacity as the customer's water retailer) but the wholesaler has advised that it will not depart from its position and therefore rejects the customer's claim. The company states that, in light of the above, it does not accept any further liability for the customer's claims for redress.

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Findings

I am not satisfied that the company failed to provide its services to the standard to be reasonably expected by the average person. The company has demonstrated that it appropriately carried out its obligations in its capacity as the customer's water retailer. Consequently, in the absence of any material failures on the part of the company, I find that the customer's claims for redress cannot succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 8 May 2020 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1847

Date of Decision: 8 April 2020

Party Details

Customer: The customer

Company: XWater, a water retailer.

Case Outline

The customer's complaint is that:

- The customer contacted the company in August 2019 to request that he be placed on a lower surface-water drainage band because he uses very little water and the charges are excessive for a business of his size.
- The customer submits that some of the business units on his site do not even pay (or pay less) for surface-water drainage.
- The company referred this issue to the wholesaler (XWholesaler) who carried out a site survey and whilst the site area was marginally reduced, this was not sufficient to change the customer's surface-water drainage banding (it remained as a band 3).
- The customer argued that water drains from his premises into a brook. However, the wholesaler explained that this did not matter as the water was transported through its sewer to get to the brook.
- The customer states that he is also concerned about potential flooding incidents from the brook and he has been signposted to the Environment Agency to pursue his concerns about this.
- The customer still maintains that he should be charged less for surface-water drainage.
- Consequently, the customer's claim is for his surface-water drainage charges to be reduced and his outstanding charges for this to be written off.

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The company's response is that:

- The company confirms that it has fulfilled its obligations as the customer's water retailer and challenged the wholesaler on the customer's behalf. However, the wholesaler has declined to change its position.
- The company has confirmed that the wholesaler's position is that the customer is being charged correctly for surface-water drainage and no changes are warranted.
- In light of the above, the company does not accept any further liability for the customer's claim for redress.

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's complaint is that the water wholesaler has rejected their claim to reduce their surface-water drainage charges (and write off the outstanding charges for this). The customer has referred the issue to CCW (Consumer Council for Water) but was unable to obtain a resolution to his satisfaction. The customer remains displeased with this situation and is now claiming for his surface-water drainage charges to be reduced and his outstanding balance for this to be written off.

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2. I remind the parties that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it. As the party raising the dispute, the initial onus of proof rests with the customer.

3. I acknowledge that the main aspect of the customer's dispute rests with their dissatisfaction that the wholesaler has rejected their request to reduce their surface-water drainage charges (and write off the outstanding charges for this). In order to make a decision in this matter, I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.

4. In light of the above, it is clear that I am unable to examine/address the customer's substantive complaints regarding the wholesaler's decision to reject their claim to reduce their surface-water drainage charges (and to write off the outstanding charges). However, I can look at whether the service provided by the company (XWater) has met the standard to be reasonably expected (of a water retailer) by the average person.

5. Following careful review of all the submissions and documents provided by the respective parties, overall, I am satisfied that the company has met its obligations to the customer as a water retailer. Specifically, I note that the company pursued the wholesaler on the customer's behalf and appropriately conveyed their challenge to its rejection of their claim. However, the wholesaler ultimately declined to depart from its position, explained how it reached its decision and upheld the rejection of the customer's claim. The company then conveyed the wholesaler's position to the customer. Accordingly, under the circumstances, I am satisfied that the company acted appropriately to pursue the wholesaler in relation to the customer's complaint and appropriately explained its position to the customer.

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6. Of note and in the interest of clarifying any potential confusion, I must highlight that the company (as a water services retailer) is not obliged (contractually or otherwise) to manage environmental flood risks from brooks or other such ecological systems. The customer may wish to refer any concerns of this nature to a more appropriate forum for resolution.
7. Therefore, in conclusion, I am not satisfied that there are any material failures on the part of the company to provide its services to the standard to be reasonably expected by the average person. Consequently, in the absence of any material failures on the part of the company (in its capacity as a water retailer), I find that I am unable to uphold the customer's claim for redress.
8. This marks the end of the WATRS stage of the customer's complaint. The customer is not obliged to accept this decision and is free to pursue resolution through all other avenues as available to them.

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 8 May 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.



E. Higashi LLB (Hons), PGDip (LPC), MCI Arb.

Adjudicator

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