

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0662

Date of Decision: 21 February 2018

Complaint

The customer submits that his property experiences external sewer flooding from time to time during periods of heavy rainfall. Whilst the company has taken action in response to his complaints, the issue persists and he is not satisfied with this. The customer is now seeking that the company permanently fix this issue and has put forward 2 suggestions of how the company might be able to do this.

Defence

The company submits that following the customer's complaints, it sent contractors to clean the sewer overflow and conducted investigations into this issue (such as CCTV scanning). The company also cleaned the sewer and removed debris from the network. The company submits that it has also actively engaged with the customer on this issue by sending its Network Engineer and Modelling Specialist to meet with him. It submits that it has recently fitted depth monitors in the manholes to better understand the network issues and to set up alarms to allow for early detection of flooding risk. The company submits that it acknowledges the customer's frustration in relation to this issue but it submits that it needs to continue investigations to ensure that it can properly remedy the situation. The company has not made any further offers of settlement.

Findings

I am unable to conclude that the company has failed to provide its services to the standard to be reasonably expected by the average person. Based on the evidence provided, I find that the company appropriately responded to the customer's issues and took reasonable action in order to alleviate the problems caused by the sewer overflow and to further investigate the matter to find a solution.

Outcome

The company does not need to take any further action.

The customer must reply by 21 March 2018 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0662

Date of Decision: 21 February 2018

Party Details

Customer: [REDACTED]

Company: [REDACTED]

Case Outline

The customer's complaint is that:

- From time to time, following heavy rain, the customer submits that his property experiences external flooding from the sewer (specifically, 6 times in 2 years). The customer submits that this causes sewage to surcharge from the manholes in his garden.
- The customer submits that he has complained to the company about this issue and whilst it has taken various actions in response to this matter (such as arranging clean up and conducting camera surveys), the problem persists.
- The customer asserts that there is an inherent design flaw in the sewer design and it goes against the laws of physics.
- The customer is seeking for the company to permanently fix this issue. He has put forward 2 suggestions of how the company might be able to do this:
 1. To plug the exit pipe to Oak Street in the manhole 0704 in the Ash Street so that all sewerage at that point is fed through the link pipe to the main foul sewer on the east side of Ash Street; or
 2. To extend the existing sewer in Oak Street by 30m westwards to link up to the sewer in the Gilders, thus avoiding Maple Street and the Ash Street.

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The company's response is that:

- It does not dispute that, following periods of heavy rain, the customer has experienced external flooding from the sewer. It submits that this is likely caused by hydraulic overload on the system caused by the heavy rain.
- The company confirms the customer's submission that it has taken various actions in order to try to resolve this issue for the customer. Specifically, the company submits that it has carried out CCTV checks to ensure that the sewer in question is operational and free flowing, cleaned the sewer on a number of occasions and removed a steel plate.
- The company submits that it has also continued to engage with the customer on this issue by sending its Network Engineer and Modelling Specialist to meet with him and discuss the matter.
- It submits that it has recently fitted a depth monitors in the manholes to better understand the network issues and to set up alarms to allow for early detection of flooding risk.
- The company submits that it acknowledges the customer's frustration in relation to this issue but it submits that it needs to continue investigations to ensure that it can properly remedy 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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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.

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How was this decision reached?

1. It is evident from the papers that the crux of this dispute lies with the customer's dissatisfaction with the company's remedial actions regarding external sewer flooding which occurs at his property in times of heavy rainfall. The customer is now seeking that the company permanently fix this issue and has put forward two suggestions of how the company might be able to do this.
2. At this juncture, I find it prudent to remind the parties that adjudication 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. Following careful review of all the evidence available to me at the time of adjudication (such as the submitted documents and the statements from the respective parties), I am only able to conclude that when the customer contacted the company in relation to instances of external sewer flooding, the company took appropriate action to aid the customer and investigate the issue.
4. Specifically, as detailed in the customer's own submissions, I note that on each occasion of external sewer flooding, the company sent out a contractor to clean up the sewer overflow. Furthermore, I note that the company also conducted CCTV checks to ensure that the sewer was operational and free flowing, cleaned the sewer on several occasions (removing scale) and also removed a steel plate from the system.
5. In addition to the above, I note that the company has continued to actively engage with the customer in relation to this issue by sending its Network Engineer and Modelling Specialist to meet with him and review the matter. I also note that, in order to aid the customer further, the company has recently installed depth monitors in the manholes to better understand the network issues and to set up alarms to allow for early detection of flooding risk.
6. I am mindful that this matter was referred to CCWater and it concluded that there was no basis to challenge the company further in relation to this matter. Specifically, CCWater concluded that the company had addressed all the complaint points raised by the customer on this issue.

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7. I acknowledge that the customer has put forward two suggestions as to how the company might be able to permanently resolve the external sewer flooding issue following periods of heavy rain (as detailed above). However, I am unable to objectively conclude that the company's refusal to make structural changes to its sewerage network as requested by the customer amounts to a failure to provide its services to the standard to be reasonably expected by the average person.
8. Therefore, in light of all of the above, upon review of all the evidence provided by the parties at the time of adjudication, I find that the company has not failed to provide its services to the standard to be reasonably expected by the average person in relation to this issue.
9. Consequently, in the absence of any substantiated failures on the part of the company; I am unable to uphold the customer's claims for redress.

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 21 March 2018 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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