

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0678

Date of Decision: 5 March 2018

#### Complaint

The customer states that his drive has been damaged by a leak to pipework serving a neighbour's property, located in the verge of the road. He submits that the company is responsible for this as it is outside the neighbour's property, and that it is responsible for repairing his driveway.

#### Defence

The leak was found to be on the supply pipe of the customer's neighbour. The company is responsible for the pipe up to the outside stop valve, located in the verge. It is not responsible for the pipe on which the leak occurred. It carried out a repair under its customer-side leak policy but accepts no responsibility for the damage caused.

The company has sent the customer a hamper due to a delay in providing a full answer to his complaint, but no offer of settlement was made by the company.

#### Findings

Responsibility for a water pipe is separate from the ownership of the land in which the pipe runs. The leak was found to be between the outside stop valve and the neighbour's property and the outside stop valve was not, itself, leaking. The owner of the neighbouring property was responsible for the leaking pipe from the outside stop valve onwards, even though this may be located in third party land. The company is not responsible for the pipe, the leak or any damage caused by the leak and its repair of the leak did not amount to it accepting responsibility for this.

#### Outcome

The company does not need to take any further action.

The customer must reply by 2 April 2018 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0678

Date of Decision: 5 March 2018

## Party Details

Customer: [REDACTED]

Company: [REDACTED]

## Case Outline

### **The customer's complaint is that:**

- The customer's driveway has sustained significant damage as a result of a leaking supply pipe to a neighbour's property. The company only has a record of the leak from August 2016. Nothing was done about the leak until December 2016 after a sheet of ice started to form on the roadside and the customer's drive. The customer raised concerns with the company but was repeatedly told to pursue the matter with his neighbours. The initial repair of the pipe in the verge appeared to stop the pooling of water. The customer had had no problems with the drive until 2016 when the leak occurred. The customer believes that the verge is the responsibility of the company and that the company has no interest in understanding his perspective. The verge under the company's responsibility extends some 6ft to the boundary fence of the customer's neighbour's property. Had the company taken steps to swiftly repair the leak then his drive would not have suffered such severe deterioration.
- The customer requests an apology and for the company to repair his driveway or meet the cost of this.

### **The company's response is that:**

- The outside stop valve of the customer's neighbour's property is located in the verge on the main, narrow road with no footpath and with a blind bend in close proximity. The leak was first reported on 11 August 2016 and the company visited on 15 August 2016. The company found that the water was running from within a customer's boundary, through the verge and down the

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road. The company attempted to carry out work in September 2016 but was unable to do so due to the need to stop traffic and due to concerns over safety. The company restarted works in October 2016 however, although a 3 metre long trench was dug, no pipework could be found. The company was advised on 29 November 2016 that the leak was freezing. The company revisited on 6 December 2016 and proved that the leak was from Green Barn, travelling through the verge near where the outside stop valve was located. The leak was not from the company's apparatus. The company replaced the outside stop valve with a new tap in a new meter box in accordance with its policy. It also repaired the leak as each customer is entitled to one free customer-side repair, replacing 10 metres of pipework to the point of entry to Green Barn. A second leak was found and was the property owner's responsibility to repair. The second leak was repaired by private contractor on 22 December 2016. The company denies that it is liable for any damage to the customer's driveway as the leaks were customer-side leaks and not from the company's assets.

### **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.

### **How was this decision reached?**

1. The customer submits that his driveway was damaged by a leak. He claims that the company is responsible for the damage and requests that it rectify this.

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2. I find that it is necessary to determine the party that is responsible for the asset that was leaking. It will be this party against whom a claim for the damaged driveway must be made. In the event the company is not responsible for the leaking asset, it cannot be held responsible for any damage caused by the leak.
3. I am satisfied from the evidence that two leaks were found at Green Barn. The company repaired one leak and the owner of Green Barn arranged for the second leak to be repaired privately. I find that the dispute relates to the leak that the company repaired.
4. When the company visited and investigated the leak, it found that there was a leak to the pipework between the outside stop valve (OSV) and Green Barn. This leak was repaired by replacing 10 metres of pipework between the OSV and the point of entry of Green Barn.
5. I am satisfied from the evidence that the OSV itself was not leaking. I am also satisfied that the leak existed on the pipework present in the verge and prior to the land boundary of Green Barn, leading into the Green Barn land.
6. The ownership of water pipes depends on numerous factors, including the type of pipe and the number of properties that the water pipe serves. The rules governing ownership are also consistent, irrespective of whether the pipework is located in a rural or city location.
7. The company will be responsible for all water mains, whether they are laid under a highway, a third party's land or a specific customer's land. A communication pipe, being the pipe that connects to the water main at one end and an OSV at the other, will also be the responsibility of the company up to and including the OSV.
8. Supply pipes will either serve an individual property or multiple properties. Where a supply pipe serves a single property, the owner of that property will be responsible for the supply pipe. Where a supply pipe serves multiple properties, all of the property owners have joint responsibility for the supply pipe. The supply pipe itself is the pipe from the OSV that serves the property, frequently also having a second, usually indoor stop tap fitted.
9. For the avoidance of doubt, a supply pipe is the responsibility of the owner of the property it serves, irrespective of the land it runs through. The property owner will therefore be responsible

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for the pipe both within their land boundary and outside the boundary of their property up to the OSV.

10. In this case, I find that the supply pipe to Green Barn commenced at the OSV in the verge. The owner of Green Barn was therefore responsible for the supply pipe within his property boundary and outside the boundary and into the verge, up to the OSV.
11. I therefore find that, as the leak was at all times within the supply pipe to Green Barn, the owner of Green Barn was always responsible for the pipe and leak.
12. I acknowledge that the company repaired the leak, however this does not affect responsibility for the pipe. I also acknowledge the delays in rectifying the first leak, although the evidence is clear that there were significant difficulties with traffic management, including large vehicles meeting head-to-head and being unable to pass each other. I note that, once the leak started to freeze, the company placed its repair on a '7 day priority' and also arranged for the area to be gritted until the repair was completed.
13. The company's terms and conditions for rectifying a customer-side leak also include that it will not accept liability for any damage caused during the period whilst waiting for a leak to be repaired. It is clear that the company, by agreeing to repair a leak, accepts no responsibility for that leak or the damage caused and this stays with the party initially responsible for the pipework, here the owner of Green Barn.
14. I also note the customer's evidence, Fg-15, which he states is contrary to the position taken by the company. Fg-15 is email correspondence between the customer and [ ] Council. The customer queried responsibility for the leak, stating "it would be very helpful ... to know if the verge on the roadside is considered part of the highway up to the landowners[sic] hedge". The Council responded stating that the verge forms part of the public highway. However, as above, the ownership of the land is a separate matter to responsibility over the water pipe within that land. The property owner of Green Barn is responsible for the supply pipe to that property, from the OSV, even where this is located on third party land.
15. In view of this, I find that the company is not the party responsible for the pipe on which the leak was located. It therefore cannot be held liable for any damage that may have been caused by the leak. I find that the company has consistently advised the customer of this, and that he

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should discuss the matter with his neighbour and/or buildings insurance. I therefore find no basis for the company to be liable for the repair of the customer's driveway, or for the company to provide any apology as it has not failed to acknowledge its responsibilities in the matter.

#### **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 2 April 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.

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**Alison Dablin**, LLM, MSc, MCIArb

**Adjudicator**

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