

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1275

Date of Decision: 12<sup>th</sup> July 2019

#### Complaint

The customer states that his name was wrongly added to an account for a property owned and occupied by his father and for which his father was the bill payer. He states that this has caused him inconvenience and loss.

#### Defence

The customer would not provide the accurate information required and it was within its legislative rights to pursue the customer for the billing. It states that it has not failed in its duties.

The company offered to settle the case by altering the name on the billing and removing the credit default entered against the customer's name in September 2015.

#### Findings

The company was wrong to rely on section 144c to obtain information about the customer and attach liability to him for the billing at the property belonging to his father.

#### Outcome

The company needs to take the following further action: Make an apology, remove the default from the customer's name, change the name on the bills of [ ] and pay compensation of £300.

The customer must reply by 9<sup>th</sup> August 2019 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1275

Date of Decision: 12<sup>th</sup> July 2019

## Party Details

Customer: [ ].

Company: [ ].

## Case Outline

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

- The company has double billed for the address, [ ]. ("the Property").
- The customer claims that this began in April 2015 when a second account in his name was opened in error for the Property belonging to his parents.
- The customer states that the billing should have been on one account in his father's name, B Brown. Or, alternatively, in the name of The Occupier, as it had been for 20 years prior to April 2015.
- The customer states that his father contacted the company to resolve the problem.
- The customer states that he was unaware of the problem initially as he was ill, and his parents had tried to deal with the matter.
- The customer claims that he has also contacted the company on numerous occasions since 2015 to resolve the problem.
- The customer states that the company involved a third party debt collector, Avantis, in October 2015.
- He claims that a negative marker was placed on his credit file in August 2015.
- The customer states that although the double billing was corrected on 10<sup>th</sup> November 2015 the issue of the correct billing name was not corrected and remains in error to the date of this application.

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- The customer seeks an apology, an admission of fault by the company, for the charges to be removed and the default against his name to be removed, for the bills to be transferred to the name of his father, B. Brown and £3,000 in compensation for stress and inconvenience.

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

- It has billed under the name of The Occupier for many years and there were no arrears at the Property.
- It states that it wished to ascertain the name of the occupier and wrote many times to ask for this information.
- It states that it carried out a residency check through a credit reference agency and obtained the name of the customer.
- The company relies on Section 144c of the Water Industry Act 1091 ("the Act") for authority.
- The company states that it was correct to bill the customer and that the default was correctly applied as the bill was not paid.
- The company states that the new account was successfully transferred on the 9<sup>th</sup> November 2018 and was maintained in the customer's name.
- It states that it would not remove the customer's name as he would not provide the required information.
- It states that it has only received the information it required through these proceedings.
- The company denies that it has made any errors and states that no apology is due.
- The company has offered to remove the default from the customer's name and alter the account to the name of B. Brown. It states that the customer has refused this offer.

**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

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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. My decision in this matter will be made solely on the information before me as provided by the parties to this dispute.
2. For clarity, the customer's claim, in part, relates to his Credit Reference File and the company's treatment of his data and that of his father. The Information Commissioner's Office (ICO) is the forum that deals with these types of matters. It would not be appropriate for me to make findings on these issues which are in the jurisdiction of the ICO. The customer's claim also deals with the issue of customer service and billing. I intend to proceed with this decision dealing with those aspects of the claim.
3. The case is unusual as the customer is, in fact, arguing that he is not a customer of the company and that the billing has been erroneously addressed since April 2015. The company is stating that the customer in this case is the proper person to whom they should have been sending the billing.
4. I note that the dispute falls into two main issues; firstly, was the Property billed twice during the period April 2015 and November 2015 and, secondly, was the company wrong to open a new account in the name of the customer in April 2014 and delivered in April 2015?
5. I have read carefully the lengthy correspondence in this case and note that the majority of it covers these two points of dispute.
6. It is common case that the original account for the Property was numbered 8[ ] ("8[ ]") and that this was paid on time and never in arrears for a substantial number of years prior to April 2015. The customer states that this was the situation for 20 years and the company does not dispute this. It is mutually accepted that the name on this account was "the Occupier".

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7. It is also common case that a new account was opened in the name of the customer and that this was numbered 6[ ]0 (“6[ ]”).
8. The customer states that the first letter received at the Property with his name on was sent on 20<sup>th</sup> April 2015. He states that he was unaware of this letter because it was kept from him by his parents due to an illness he was suffering. The company has not challenged this part of the customer’s claim, but states that this information is new.
9. The customer states that between April 2015 and November 2015 the company involved a third party debt collector to retrieve money allegedly owed on the account 6[ ]. The customer states that this was done in October 2015 and was for an amount of £340.97. The company does not directly challenge this and accepts that there was a debt collection action initiated in the name of the customer.
10. The customer states that his father, the owner of the Property and the bill payer, had contacted the company on the 13<sup>th</sup> March 2015 and 1<sup>st</sup> June 2015 to state that the new bill was in error and had the wrong name. The company does not deal directly with this, but states that in all communications the bill payer refused to give the details of his own name.
11. The company states that had it received the information it required in 2015 that it could have resolved the problem at that time. The customer states that his father was reluctant to trust the company with further information regarding his personal details.
12. The company states that it relies upon Section 144c of the Act which, it states, gives it the right to bill the customer as he is an occupier of the Property and the owner would not give the required details. I note that the letters referred to in the company’s defence are not in evidence.
13. In considering this matter I have taken into account the Act referred to by the company. Section 144c was inserted into the Act by Section 45 of The Flood and Water Management Act 2010 and came into force in January 2015. It reads: *“144c Non-owner occupiers (1) This section applies to residential premises which are occupied by one or more persons other than the owner (and not by the owner). (2) The owner must arrange for the undertaker to be given information about the occupiers. (3) If the owner fails to comply with subsection (2), the occupiers' liability for charges under this Chapter becomes shared jointly and severally with the owner.”* I further note

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that the company's guidance, to which the company refers in its defence at page 48, states:  
*"Where a household premises is occupied by more than one person other than the owner and not by the owner, then in accordance with section 144c of the Act (..) they will be required to provide us with details regarding the occupiers."*

14. It is important to observe that this section of the Act only applies where the owner is not the occupier of the house. I note that the owner in this case was the customer's father and that he was the bill payer and had paid the bills for approximately 20 years. The customer states that the owner, his father, lives in the Property. I have no other evidence that this is not the situation and the company has not challenged this. The company has not provided evidence that the Property was not occupied by the owner. I find that, on the evidence provided, the property was occupied by the owner and that, therefore, section 144c of the Act cannot be applied to this customer. Following on from this, I find that the customer should not have been added to the billing for the Property and that the second account, 6[ ], should not have been opened.
15. I also note that Section 144c of the Act was brought into being to tackle bad debt and to assist service providers in collecting money owed by non-payers. There is no evidence that this applied in the present case.
16. I do not have any evidence before me that the company acted in anything other than good faith. I do not find that there was any deliberate act of wrong doing on the part of the company, but rather a misinterpretation of its legislative rights in this particular case.
17. I have carefully considered all the implications of this change of name. I accept that there were duplicate bills between April 2015 and November 2015 for the Property. I do not find that any fault attaches to the customer for this. I have taken into account that the bills for the property were paid for a substantial length of time with no arrears and that it was only due to the confusion arising from the new bill that there were arrears that appeared to be accruing. I find that in pursuing the customer for the arrears the company was in error and that this fell below the standard to be reasonably expected by the average person.
18. I have to note here that I find that the company's rights in relation to the billing for the Property extend only to the owner and not to any occupier, in this case, the customer.

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19. As I have already indicated in paragraph 2 of this Decision, any matters relating to the propriety of the use of the Credit Checking Agency in March 2015 is something that is outside the scope of the WATRS scheme.
20. On balance, I find that the company's services did fall below the standard to be expected by the reasonable person.
21. Remedies: The customer seeks: An apology. I direct that the company makes an apology to the customer in particular, for opening an account in his name.
22. An admission of fault. The purpose of the WATRS scheme is to resolve disputes and remedy, as far as possible, any losses. I do not find that this request would be a proper direction to make. I have not found that there was any element of malice or deliberate wrongfulness in the actions of the company. I further note that I have directed an apology and I find this sufficient. I do not make this direction.
23. The default to be removed. I direct that the company removes the default entered against the customer on 15<sup>th</sup> September 2015. I note that this action was an offer made by the company in its letter of 18<sup>th</sup> June 2019 and, therefore, I accept that the company is able to carry this out.
24. The bills to be made out in the name of B Brown, the customer's father and bill payer at the Property. I direct that the company alter the account to record the name B Brown and that it removes the name M Brown from its records.
25. The customer further seeks compensation of £3,000 for stress and inconvenience. I note that the limit for this type of compensation is £2,500 and that this is only for very serious cases. While I do note that the customer has suffered inconvenience and, inevitably, stress arising from this situation, in particular the default against his name, I have no evidence before me that this was of the level of severity that would merit an award at the higher end of the scale. I direct an amount of £300 to be paid to the customer. I find that this is a fair reflection of the circumstances, given the other matters that I have directed in his favour.

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## Outcome

The company needs to take the following further actions:

Make an apology, remove the default from the customer's name, change the name on the bills of B Brown and pay compensation of £300.

## What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 9<sup>th</sup> August 2019 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.



J J Higgins, Barrister, ACI Arb.

## Adjudicator

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