

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1311

Date of Decision: 29 August 2019

Complaint

The customer has a dispute with the company regarding the amount of time it took to identify the location of a leak in his water supply pipe. The customer asserts that the company took more than one year to identify the location of the leak and this delay caused additional damage to wooden decking in his garden adjacent to his dwelling. Consequently, he requests the company to reimburse him the cost of repairing and replacing the decking and pay compensation for stress and inconvenience in the total amount of £7,091.00 and issues an apology.

Defence

The company denies that it took an excessive amount of time to locate the leak and that after it is established the leak was not from its own assets it advised the customer that the leak was on his own supply pipe and thus his responsibility. The company notes that the customer took approximately ±6 months before fixing the leak after it advised him, and it records it assisted him to locate the leak despite having no legal obligation to do so. The company has not made any offer of settlement to the customer, and believes it has acted in a fair and reasonable manner, and thus declines to honour any of the customer's requests.

Findings

The customer has not presented sufficient evidence to support his claim that the time period between identifying a leak and repairing it contributed to the state of disrepair of his decking. I find the company has managed the customer's account and complaint with a reasonable level of skill and care. 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 **** September** 2019 to accept or reject this decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1494

Date of Decision: 29 August 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 a water leak, and claims that the company took excessive time to locate a leak on his supply pipe which increased the amount of damage to his garden decking. The company admits minor infractions in procedure and has offered applicable compensation but not at the amount claimed by the customer. 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 contacted the company in February 2017 to report that he had no water supply at his property. Subsequently, on 13 February 2017 the Company sent engineers to investigate and discovered that the outside stop valve [OSV] to his property (located in a nearby road) was closed, and upon opening the valve the engineer noticed water leaking from it. He advised the customer that a team would be sent to fix the leak.
- The customer asserts that the company made a subsequent visit to the vicinity of his property on 05 June 2017 and advised him that a leak was present underneath the business premises adjoining his property. He was advised that the company would liaise with the business and arrange to investigate access to the leak, but the customer asserts that the leak continued.
- The customer further claims that on 29 January 2018 the company sent another engineer to his property, and at this visit it identified the leak as being present under his own premises and not under the adjoining property as initially thought. Subsequently he arranged, through his home insurance policy, to have the leak repaired. This was done on 06 March 2018.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- Because of the time period between February 2017, when he first contacted the company, and 06 March 2018, when the leak was repaired, the customer asserts that he believes the company's delay in locating the leak increased the damage to floor decking located outside and adjacent to his property. As a result, he believes the company did not act with sufficient urgency and initially provided incorrect information as to the exact location of the water leak.
- Additionally, the customer asserts that in October 2017 the company proposed to him to fit an additional stop-valve on his property to attempt to identify the location of the leak. The customer states he agreed to this but was then surprised to be asked to remove the outside decking in his garden such that the company could install the stop-valve adjacent to his dwelling. The customer agreed to allow the company to remove the decking and states that the company used a private contractor to do the work.
- The customer further states that the removal of the decking did not immediately show the location of the leak, and its actual location was found by other means. Thus, he questions why the decking had to be removed. The customer further states that an initial emergency repair to the decking area cost him £1,075.00, and was the direct consequence of (i) the company removing the decking unnecessarily, and (ii) taking in excess of one year to identify the exact location of the leak resulted in additional deterioration to the decking support works.
- The customer states that he was sent a bill in the sum of £12,296.58 in November 2018 despite being advised that he would be charged based on his usual normal usage. The customer believes that this is emblematic of the poor communication he has received from the company during the time of the dispute and is a clear example of a duty of care failure by the company in its dealings with him.
- The customer, dissatisfied with his interactions with the company, escalated his dispute, on or around 23 November 2018, to CCWater who took up his case with the company on his behalf. 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 is not satisfied with the response of the company and consequently, on 20 June 2019, has referred the matter to the WATRS Scheme whereby he seeks four remedies, viz : (i) to have the company undertake investigations to ascertain if damage has been done to his and neighbouring properties; (ii) to receive a written apology; (iii) to receive compensation for stress and inconvenience in the sum of £2,500.00; (iv) to have the company reimburse him for the repair costs of the decking in the combined sum of £4,591.00.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

The company's response is that:

- The company submitted its Defence paper to the claim on 12 August 2019. The company advises that it was first notified of a potential leak in the area around the customer's property in December 2016, and that on 13 February 2017 an engineer attended and identified what was thought to be a redundant supply pipe and closed the pipe.
- The company states that later the same day, 13 February 2017, the customer contacted it to complain that he had no water supply to his dwelling. The company re-opened the supply pipe to restore supply to the customer and noted that a leak was possible somewhere in the supply pipe as the meter was continuously recording.
- The company states that on 05 May 2017 the customer contacted it to complain of a larger than usual bill and subsequently on 19 May 2017 one of its engineers attended the customer's property and identified a leak on the customer's privately owned supply pipe, somewhere between the OSV and the inside stop-valve [ISV] inside the dwelling. It was noted that the supply pipe between the OSV and ISV ran underneath the neighbouring premises and so on 09 October 2017 the company excavated its own OSV and confirmed that its own asset was not the cause of the leak.
- The company records that it advised the customer of the leak on his private supply pipe and that in order to determine if the leak was outside or inside his dwelling it needed to install an additional stop-valve outside but adjacent to the dwelling and as such he would need to remove some of his garden decking. The company asserts that on 04 January 2018 the customer signed a discharge form giving permission for it to remove the decking and absolve the company of responsibility for any damage to the decking during removal.
- The company states subsequently, on 29 January 2018, it removed the decking and installed the new stop-valve and this process identified that the leak was actually underneath the customer's kitchen floor and thus was his responsibility to organise the necessary repair works at his own expense.
- The company asserts that it advised the customer on 23 March 2018, after the repair works to the leaking pipe that it would install a new meter to his property and that readings and calculations would be done to calculate a leak allowance to be paid to him. Consequently, a leak allowance was applied to the customer's account on 28 November 2018.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- The company notes that on 14 January 2019, in response to the customer's escalation to CCWater, it advised him to submit claim forms should he believe that the company caused significant damage to his property when investigating to locate the leak. The company asserts that it has clearly made known to the customer the legal obligations regarding maintenance and repair to water supply pipes, and simplistically he is responsible for the supply pipe from the point of entry onto his premises. The company states that it first checked the OSV for leakage because it is responsible for its own assets and thus wished to establish from the outset that one of its assets was not responsible for the leak.
- In summary, the company confirms that it has undertaken extensive investigations into the location of the leakage and has followed the protocols set down in its own code of practise. It notes that it assisted the customer free of charge to investigate the supply pipe (although it has no obligation to do so) but this was hampered by the fact the pipe ran underneath an adjacent business premises. Consequently, it does not accept that it is responsible for the state of the decking and thus declines to pay any compensation for its repair. It also believes that it is not responsible for any stress and inconvenience suffered by the customer and declines to pay compensation for such.
- The company believes it has acted reasonably and taken all possible measures to assist the customer. It further notes that it has made a gesture of goodwill payment in the sum of £190.00 for poor communication in sending bills to the customer prior to applying a leak allowance.

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

- The customer did not submit comments on the company's Defence document.

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.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

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 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 having taken more than twelve months to locate a leak in the water supply pipe to his property. The customer believes this length of time contributed to damage done to his wooden garden decking resulting in both repair and replacement.
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 or not the company was tardy in identifying the location of a water leak on the pipe supplying the customer's dwelling, and if any such lack of action contributed to the damage to external garden decking at the property.
4. The customer in his application to the WATRS Scheme has stated that the leak was first detected on 13 February 2017, but he does not state that he himself was aware of any leak or supply me with any evidence that he contacted the company in this respect. I am satisfied that he actually contacted the company to complain of a lack of water at his dwelling, and it was the company engineer reconnecting his supply that identified a potential leak. Additionally, I find that I have not been supplied with any evidence that the customer knew of a leak even when he called the company on 05 May 2017 to query a higher than normal bill. On 19 May 2017, the company sent an engineer to the customer's property and he identified the existence of a leak on the customer's piping somewhere between the OSV and the ISV.
5. The customer has queried as to why the company's first action was to excavate its OSV in an adjacent street, and the company has explained that as the leak was between the OSV and the ISV the first priority was to establish if the leak was from one of its assets. The OSV is a

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

company asset. I find that the company's action was reasonable as a first step in the process of finding a leak.

6. The company in accordance with OFWAT guidelines is responsible for maintaining the piping between its water main and the OSV, but the customer is responsible for the supply pipe between the OSV and his property. I am satisfied that the customer was aware of this situation as he refers to the company's leakage guidelines in his WATRS Application.
7. The leakage guidelines further state that in the interests of preventing and limiting water wastage through leaks, the company will assist the supply pipe owner to repair a supply pipe even though it has no legal obligation to do so. Having established through water meter monitoring that a leak existed, and having established that it was a customer side leak, the company offered to assist the customer to locate the position of the leak. The water leakage guidelines state that even if a supply pipe crosses an adjacent property the customer remains liable for the pipe.
8. In this case, it was identified that the supply pipe did indeed cross someone else's land, that being the business premises next door to the customer's dwelling. I am satisfied that should it have been necessary to excavate across those premises the customer would have been responsible for all costs. The company has stated that it wished to minimize any negative impact to the operation of the business, and I find this to be a reasonable position. Additionally, I do not find that the company has shown insufficient urgency in its action as stated by the customer.
9. In order to minimise any impact on the adjacent business the company offered to assist the customer to ascertain if the leak was actually under the business premises or was under his own garden, and to that effect it proposed to install an additional stop-valve adjacent to the customer's dwelling at the point the supply pipe entered the dwelling. From the documents laid before me I am satisfied that he accepted the offer of assistance and consented to the company removing part of his wooden garden decking to allow access to the supply pipe. I am provided with a copy of the consent form signed by the customer accepting that the company would not be liable for any damage to the decking. Upon removal of the decking the leak was established to be inside the customer's property.
10. As the water leakage guidelines state, the company was not responsible to repair the leak, and consequently this was undertaken by the customer directly. The customer has claimed that the company's delay in locating the leak was the cause of additional deterioration to the support structures of the decking and has only provided me with evidence of the state of the structure prior to removing the decking. The photographs he submits show the condition of the structure

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

at the time the decking was lifted but not its state in October 2017 when a leak in his supply pipe was first detected.

11. I am aware that the customer states in his WATRS Application that his claim for compensation in respect of the decking is not for the purported damage done by the company when lifting the decking but for the damage caused by the company's delay in locating the leak. However, I am not satisfied, on balance, that the customer has sufficiently demonstrated cause and effect in so much that he has stated the start and end dates of the investigation period but has not detailed specific delay periods and their causes. I am more persuaded by the company's plea that it has procedures to follow and that the fact the supply pipe crosses the land of a different owner has compounded the difficulties. I find no duty of care failure by the company to manage the customer's account with reasonable skill and care.
12. Additionally, the company has relied upon the fact that the customer became aware of the customer side leak on his supply pipe as from 09 October 2017 when the OSV was found not to be the source of the leak. Thus, I am satisfied that should the customer have been suitably concerned over the ongoing leakage on his own pipe he was free to engage his own experts to identify and fix the leak. I am further satisfied that it was his own decision not to do so, only retaining experts to repair the pipe after the company located the leak. Thus, again, I find no duty of care failure by the company to manage the customer's account with reasonable skill and care.
13. In his application to WATRS the customer has requested four remedies, (i) to have the company undertake investigations to ascertain if damage has been done to his and neighbouring properties; (ii) to receive a written apology; (iii) to receive compensation for stress and inconvenience in the sum of £2500.00; (iv) to have the company reimburse him for the repair costs of the decking in the combined sum of £4591.00.
14. I understand that the customer has withdrawn his request under remedy (i) as It is outside the jurisdiction of this adjudication scheme.
15. In respect of remedy (ii) I have found no duty of care or customer service failings by the company, and thus it follows that an apology is not appropriate.
16. The customer requests the sum of £2,500.00 in compensation for distress. I recorded above that I am satisfied that the company has acted responsibly and reasonably in dealing with both the customer's leakage issue and in its dealing with him. From documents supplied to me I note that the company accepts a shortfall in its communication procedures and has paid the customer the amount of £190.00 in compensation for this. I am satisfied that the company has not caused the

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

delay as claimed by the customer and as such any stress and inconvenience experienced by the customer is not the fault of actions or omissions on the part of the company. Thus, it follows that I find the compensation as requested is not appropriate.

17. The customer requests as his fourth remedy, the repayment of the cost of repairs to his decking in the combined amount of £4,591.00. As I have found above that the customer was aware of a leak on his supply pipe from 09 October 2017 and as such was at liberty to act on his own behalf, and plus that he has not established the state of the decking support structure at that date, I find that reimbursement of the repair works is not applicable. I shall not direct that the company reimburse the payment.
18. In summary, I have found no failure by the company to provide its services to the standard to be reasonably expected. I find the company has dealt reasonably with the customer's leak issues, and I have found that the customer has not provided sufficient evidence to justify the claim.
19. 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 does not succeed.

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 ** September 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); FCIArb; FA Arb; Member London Court of International Arbitration;
Member CEDR Arbitration Panel;

Adjudicator

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.