

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1453

Date of Decision: 18 July 2019

Complaint

The customer submits that she is a tenant; her landlord is ABC Housing, a housing association. She contacted the company and spoke to an operative as her bills were too high for two occupants. A leak was confirmed at her property. The company provided a leak allowance from 2013. However, she would like the leak allowance backdated to 2007. In addition, there has been a further leak identified since the allowance was awarded. The company has been unable to consider an allowance as the meter readings are still high. The customer has also raised a number of complaints about the customer service provided by the company. The customer requests that the company provide an apology; accept responsibility for the whole ordeal which has had a negative effect on her health; pay compensation for distress and inconvenience in the sum of £2,500.00; and re-calculate the leak allowance as she still has a leak.

Defence

The company submits that the customer has had a water leak on private pipework that it bears no responsibility over. Whilst its bills the customer for providing water and wastewater services, it has no liability over the repair and maintenance of private pipework. It repaired a leak on 2 May 2018 at the Outside Stop Valve (OSV). Meter readings show that it is correct in not adjusting any bills prior to 8 February 2013. Another leak was confirmed under a kitchen cupboard on 14 September 2018. As such, the customer was advised to contact her housing association to organise its repair. On 18 March 2019, it agreed that it would calculate a further leak allowance once it had two readings of the meter returned to show the leak has now been repaired and the customer's consumption is back at a normal level. However, consumption subsequently recorded was still higher than the customer's historic consumption prior to 2013 and, immediately after it had repaired the leaking OSV on 2 May 2018. Due to this, it informed the customer to liaise with her housing association to ensure there are no further leaks at her home. Gestures totalling £110.00 have been either paid to the customer or applied to her account. It has sent the customer some chocolates and wine and she also received a bunch of flowers.

Findings

The company is legally only responsible for the water main and the communication pipe from the water main to the boundary of a property. Any leaks or issues on private pipework and any costs to investigate and remedy

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.

these are the responsibility of the property owner/occupier. The leak under the kitchen cupboard was on the customer's private pipework. It was therefore not the company's responsibility to repair. Evidence suggests that this leak has now been repaired. However, the customer states, in her Comments on the Defence dated 10 July 2019, that she still has a leak in her home. There is no evidence to show that the customer has reported any further leaks to the company and that any further leaks are on the company's side of pipework and the company's responsibility to repair. The evidence does not show that the leak allowance should be backdated to 2007. Meter readings confirm the company's submissions that the customer's consumption began to rise without fluctuation after a meter reading on 8 February 2013. The company agreed that it would calculate a further leak allowance once the leak had been repaired and the customer's consumption was back at a normal level. In view of the customer's submission that there is still a leak at her property, and in light of the company's policy set down in its Charges Scheme, I am unable to direct that the company calculate a further leak allowance. In the instances where the company failed to provide a reasonable level of customer service, the company addressed these failings and provided sufficient redress including apologies, compensation and/or gifts-in-kind.

Outcome

The company does not need to take any further action.

The customer must reply by 15th August 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/ /1453

Date of Decision: 18 July 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- She is a tenant. Her landlord is ABC Housing, a housing association. She contacted the company and spoke to an operative as her bills were too high for two occupants. A leak was confirmed at her property.
- The operative suggested stopping her Direct Debit while the leak was being resolved.
- She requested that the company revoke the metered charges and revert to unmeasured billing. However, the company stated that this was not possible.
- The company attended to fix the leak. It took the contractors hours to repair it and the contractors were unable to reconnect her meter claiming that the diameter of her piping was too large. The contractors promised to send another team to reconnect the water meter.
- The contractors failed to tidy up the area in which the repair work was carried out including the hole it had excavated. She had to prompt the contractors to cover the open excavation. The contractors failed to re-attend until two days later to carry out a clean up.
- There were instances that company advisors told her that they had to end the call as they had been on the phone with her too long.
- She has requested that the company consider her bills between 2002 and 2018 for leak allowance purposes. However, the company has refused to do so. The company has calculated the leak allowance from 2013. She would like the leak allowance backdated to 2007.
- In addition, there has been a further customer side leak identified since the allowance was awarded. The company has been unable to consider an allowance as the meter readings are

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.

still high. Her landlord is looking to replace her kitchen units later this month [the WATRS application is dated 3 June 2019] and that should resolve the leak.

- The customer requests that the company provide an apology; accept responsibility for the whole ordeal which has had a negative effect on her health; pay compensation for distress and inconvenience in the sum of £2,500.00; and re-calculate the leak allowance as she still has a leak.

The company's response is that:

- The customer has had a water leak on private pipework that it bears no responsibility over. Whilst its bills the customer for providing water and wastewater services, it has no liability over the repair and maintenance of private pipework.
- It has attended the customer's property to investigate leaks, which are the responsibility of the owner of the property, on no less than four occasions.
- On 2 May 2018 it repaired a leak at the Outside Stop Valve (OSV) for the customer's home. Pipework past the point of the OSV is the homeowner/occupier's responsibility and not RST Water's. The water meter connected to the customer's supply is located at the OSV. As the water meter was recording high consumption a leak could only be on pipework past the point of the meter i.e. private pipework.
- Section 143 of the Water Industry Act 1991 gives it the power to set a Charges Scheme. It is stated, in its Charges Scheme 2019/20 (and all previous years), that it will use consumption recorded prior to a leak as a basis for calculating a leak allowance for a customer or, "entirely at [its] discretion, on the basis of future water use at the relevant premises".
- It has used the correct periods for the customer's leak allowance. A meter reading taken on 8 February 2013 shows the customer's Average Daily Unit (ADU) began to rise to a level higher than it had ever been before. Prior to the leak period, the customer used water at a rate of 0.37m³ on average, per day. However, it has used the ADU recorded between the two meter readings dated 6 June 2018 and 18 June 2018 of 0.33m³. This is clearly to the customer's benefit and shows that it used its discretion.
- An ADU of 0.37m³ is in line with the consumption it would expect of a household of two to three occupiers which it knows there are at the customer's home. This confirms it was correct in not adjusting any bills prior to 8 February 2013 as the customer requests, as her consumption prior to this date was in line with what it would expect of a household of two to three occupiers.

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.

- On 14 September 2018, it attended the customer's home and a leak was found just after the point the pipework enters the property under a kitchen cupboard. As such, the customer was advised to contact her housing association to organise its repair.
- On 26 September 2018, a Senior Case Manager handling this matter spoke to the Consumer Council for Water (CCW) and confirmed that the remaining leak at the customer's home was found to be inside the property and no further leak allowance would be provided in line with its policy.
- On 12 March 2019, it received an email from CCW who advised that the customer had notified them that her leak had now been repaired by her housing association and requested a further leak allowance.
- On 18 March 2019, another Senior Case Manager took on the case and arranged for a meter reading to be taken. It informed CCW that it would calculate a further leak allowance once it had two readings of the meter returned to show the leak has now been repaired and the customer's consumption is back at a normal level.
- By 8 April 2019 it had taken two meter readings and the consumption recorded between both readings was still higher than the customer's historic consumption prior to 2013 and, immediately after it had repaired the leaking OSV on 2 May 2018. Due to this, the Senior Case Manager handling the matter called CCW and explained that the customer would need to liaise with her housing association to ensure there are no further leaks at her home.
- It has always attended promptly; been proactive in trying to arrange appointments; has assigned Case Managers at each stage of the process be that to, calculate and apply a leak allowance to the customer's account or, respond to her written communication within its regulated timescale of ten working days. It disagrees with the customer's allegation that it provided poor customer service.
- Gestures totalling £110.00 have been either paid to the customer or applied to her account. It has sent the customer some chocolates and wine and she also received a bunch of flowers albeit, the flowers were not intended as a gesture and were in fact an error on the part of the company it uses for these gestures.

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.

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.

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. I must remind the parties that adjudication is an evidence-based process.
2. 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.
3. Submissions made without supporting evidence are unlikely to be accepted as proven.
4. It is almost inevitable in such adjudications that conflicts of evidence arise, and the mere fact that the adjudicator finds in favour of one party on a particular issue does not mean that the other is telling an untruth. The adjudicator's role is to balance the evidence that is presented.

ABC Housing

5. I acknowledge the customer's submissions about her landlord, ABC Housing. However, for the purposes of WATRS my remit is to determine the issues between the customer and the company only. Any claims or complaints against ABC Housing cannot be considered.

Responsibility for leaks

6. The company is legally only responsible for the water main and the communication pipe from the water main to the boundary of a property. Property owners or occupiers are responsible for

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 supply pipe, which runs from the boundary of the property to the property and all the pipework, fixtures and fittings inside the property.

7. Any leaks or issues on private pipework and any costs to investigate and remedy these are the responsibility of the property owners/occupiers.
8. The company attended the customer's property on 2 May 2018 and repaired a leak at the OSV.
9. Prior to this, on 22 January 2018, the company attended the customer's property and its investigations indicated that there was a leak under the kitchen cupboard. The customer was advised to contact her landlord. On 13 February 2018 customer informed the company that her landlord had been unable to find a leak inside her house. On 14 September 2018, the company confirmed the leak under a kitchen cupboard just after the point the pipework enters the property. The customer was again advised to contact her landlord to organise its repair. This leak under the kitchen cupboard was on the customer's private pipework. As discussed above, the company is not responsible for repairing any leaks on private pipework. I therefore find no failing on the company's part in this regard.
10. Meter readings submitted by the company in evidence suggest that the leak was repaired on or before 28 June 2019 – which would correspond with the customer's submission that her landlord was looking to replace her kitchen units and resolve the leak later in June 2019. However, the customer states, in her Comments on the Defence dated 10 July 2019, that the leakage problem is ongoing and she still has a leak in her home.
11. There is no evidence to show that the customer informed the company that the leak confirmed on 14 September 2018 has now finally been repaired. There is also no evidence to show that the customer has reported any further leaks to the company and that any further leaks are on the company's side of pipework. Therefore in the absence of any evidence showing otherwise, the customer has not shown that the company failed to provide its services to the customer to the standard to be reasonably expected and that any further leaks are the company's responsibility. I find no failing on the company's part in this regard.

Leak allowance – request that the allowance be backdated to 2007

12. The customer submits that the allowance provided by the company is incorrect.

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.

13. Firstly, the customer submits that the leak allowance should be backdated to 2007.
14. Meter readings for the customer's property from 9 May 2002 to 28 June 2019 have been submitted in evidence.
15. These readings confirm the company's submissions that after a meter reading on 8 February 2013, the customer's ADU began to rise to a level higher than it had ever been before. The evidence also confirms that prior to 2013 readings fluctuated, with an increase in usage always being followed by a decrease. I accept the company's submission, on a balance of probability, that if there was a leak prior to 2013, usage would have remained consistent or continued to rise. The evidence therefore does not show that the leak allowance should be backdated to 2007.

Leak allowance – the customer's submission that the ADU used to calculate the allowance is incorrect.

16. The customer also submits that the company has miscalculated the leakage allowance due as the ADU used to calculate the allowance is incorrect as she still has a leak.
17. Following the repair at the OSV on 2 May 2018, the company took two meter readings on 6 June 2018 and 18 June 2018 and calculated an ADU of 0.33m³. This ADU was used to calculate the leakage allowance for the leak period from 8 February 2013 to 6 June 2018, when the first meter reading after the OSV was repaired was taken. On or before 20 June 2018 a leak allowance of £1,919.96 was applied to the customer's account.
18. As discussed above, on 14 September 2018 another leak under a kitchen cupboard detected on 22 January 2018 was confirmed, and the customer was again advised to contact her landlord to investigate and organise the repair. Meter readings suggest that the leak was repaired on or before 28 June 2019. However, the customer states, in her Comments on the Defence dated 10 July 2019, that she still has a leak.
19. On 18 March 2019, the company agreed that it would calculate a further leak allowance once it had two readings of the meter returned to show the leak has now been repaired and the customer's consumption is back at a normal level. Having carefully considered the matter, I

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.

accept the company's submissions that it was not appropriate to calculate any further leakage allowances until all leaks at the property had been resolved.

20. In addition, I am mindful that the company's Charges Scheme states a *"leakage allowance will be granted for a period commencing with the billing period prior to the billing period in which the leak came to RST Water's attention and ending on the date the leak is repaired."* [adjudicator emphasis added].
21. Further, I also accept the company's submissions that its Charges Scheme permits it to calculate a leakage allowance "entirely at [its] discretion" and that the company's decision about a leakage allowance calculation is final.
22. Under Section 143 of the Water Industry Act 1991 the company is entitled to make a Charges Scheme. There is no evidence to show that the company's Charges Schemes have not been approved by OFWAT or do not comply with OFWAT's Charging Rules. I have no power to challenge the company's Charges Scheme.
23. Finally, I am also particularly mindful that the customer herself presents the same argument in that an ADU used to calculate a leak allowance whilst a leak is ongoing would be incorrect.
24. Consequently, in view of the customer's submissions that she still has a leak and in light of the company's Charges Scheme, I am unable to direct that the company calculate a further leak allowance.

Customer service

25. The customer has raised a number of complaints about the customer service provided by the company.
26. Having carefully considered the evidence provided, no evidence has been submitted to this adjudication to show that: the company informed the customer to stop her Direct Debit; that the company was discourteous during telephone calls; and that the company is obliged to revert to unmeasured billing. I therefore find no failings on the company's part in this regard.

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.

27. There is no evidence to show that the company took an unreasonable amount of time to repair the OSV on 2 May 2018. The company submits that when it attended on 2 May 2018 it replaced the OSV and ordinarily it would have replaced the private supply pipe as an excavation was open; in order to reduce the likelihood of future leakage on the supply pipe. However, I accept the company's submissions that under its leak policy submitted in evidence, it will not replace or repair a private supply pipe if it is more than 50mm in diameter. The pipe at the customer's property was more than 50mm in diameter. This supply pipe was therefore not replaced and there was already a meter attached to this pipe prior to the company undertaking repairs on 2 May 2018. The evidence shows that the company failed to screw the meter back onto the supply in error after the OSV was replaced, and not that the company was unable to reconnect the meter due to the diameter of the pipe. I am also mindful that contemporaneous account notes do not indicate that the customer believed that the meter was not connected as she provided the company of a meter reading on 3 May 2018, the day after. The evidence shows that it was not until 1 June 2018 that the company became aware that it had failed to reconnect the meter. The company accepts it failed to provide its services to the standard to be reasonably expected in this regard and has provided redress. I am satisfied that this was sufficient and appropriate.
28. The company has submitted a photo diary of the works at the customer's property between 2 and 4 May 2018. The company made detailed submissions about its excavations and reinstatement process. The evidence confirms the company's submissions that excavations were boarded up as a standard health and safety measure. No evidence has been submitted to this adjudication to show that the company failed to clean up sufficiently or at all. In the absence of any evidence showing otherwise, I am also unable to find a failing on the company's part in this regard.
29. To conclude, the evidence does not show that the company is responsible for repairing the leaks at the customer's property. In addition, bearing in mind the customer's submissions that there is still a leak at her property and in light of the company's policy set down in its Charges Scheme, I am unable to direct that the company calculate a further leak allowance. Further, having carefully considered the evidence provided, I accept the company's submissions that each time the customer contacted it, her communication was addressed and reasonable attempts were made to rectify the issues which were being experienced. In the instances where the company failed to provide a reasonable level of customer service, the company addressed these failings and provided sufficient redress including apologies, compensation and/or gifts-in-kind.

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.

30. Consequently, in view of all of the above, the customer's claim is unable to succeed.

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 15th August 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.



U Obi LLB (Hons) MCI Arb
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.