

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1473

Date of Decision: 23 July 2019

Complaint

On 29 January 2019, the customer received twenty one reissued monthly bills for the period from April 2017 to December 2018. The bills previously issued for this period were withdrawn because the trade effluent charges were incorrect. The difference between the reissued bills and the withdrawn bills was £8,984.45. The company admitted to backdating the charges further than they should have done and provided the customer with a revised bill and Guaranteed Standards Scheme (GSS) payments totalling £60.00 in recognition of the mistakes made. However, the outstanding balance on the account is £6,261.68 due to the company's admitted negligence. The company offered to reduce the balance on the account by £500.00 and set up a payment plan for the remainder. However, in view of the company's negligence and the detriment suffered as a consequence, the customer felt this was inadequate and rejected the offer. The customer wants the company to reduce the backdated charges by half.

Defence

The wholesaler (RST Water Services) amended The Central Market Operating System (CMOS) with up to date data relating to trade effluent charges. As the customer's retailer, the company updated its billing system to reflect the amendments and realised it had previously undercharged the customer for trade effluent. Therefore, it recharged the customer for a twenty one month period from April 2017 with the correct charges. However, under its charging scheme, the maximum period for backdating charges is sixteen months. To rectify this error, the company applied a credit of £2,722.77 to the customer's account and issued the customer with GSS payments totalling £60.00 in recognition of its customer service failings. The remainder of the charges are correct and payable. However, as a gesture of goodwill, the company offered the customer a reduction of £500.00 and a payment plan to clear the remainder, but the customer declined the offer.

The company has not made an offer of settlement.

Findings

The company admits to erroneously undercharging the customer for trade effluent between April 2017 and December 2018. Under the Water Industry Act 1991, the company is entitled to charge the customer for trade effluent and there is no evidence to suggest that the amount charged is incorrect. Under the company's charging scheme, the company is entitled to backdate the customer's charges for a sixteen month period. The company accepts that it breached its charging scheme by applying backdated charges to the customer's account beyond the maximum sixteen month period and, on balance, I find that the company failed to provide its service to the expected standard in this regard. However, the evidence demonstrates that the company rectified this error by removing the backdated charges from the customer's account for the period from April 2017 to August 2018. Therefore, I find that the company has now applied backdated charges for a sixteen month period in accordance with its charging scheme. In view of this, I do not find that the company has failed to provide its services to the standard the customer is reasonably entitled to expect and, consequently, the customer's claim cannot succeed. The evidence also demonstrates that the company has satisfied its liability under the GSS guidelines and I make no further direction to the company in this regard.

Outcome

The company does not need to take any further action.

The customer must reply by 20 August 2019 to accept or reject this decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1473

Date of Decision: 23 July 2019

Party Details

Customer: [REDACTED].

Company: [REDACTED].

Case Outline

The customer's complaint is that:

- On 18 January 2019, a Catchment Quality Scientist attended the customer's business premises to take effluent samples. Following this, the company sent a letter dated 28 January 2019 stating that fixed strengths would apply from 1 April 2019, but it did not state that the charges would be backdated.
- On 29 January 2019, the company sent twenty one reissued monthly bills for the period from April 2017 to December 2018. The bills previously issued for this period were withdrawn because the trade effluent charges were incorrect.
- The difference between the reissued bills and the withdrawn bills was £8,984.45. When she complained, the company admitted to backdating the charges further than it should have done under its charging scheme and reduced the arrears by £2,722.77 to correct the mistake. The company also made GSS payments in the amount of £60.00 for customer service failings relating to this error.
- The outstanding balance on the account is now £6,261.68. The company offered to reduce the balance on the account by £500.00 and set up a payment plan for the remainder. However, in view of the company's admitted negligence and the detriment suffered, she wants the company to reduce the account arrears by 50%. The company has refused to do this, stating that its low profit margins prohibit such a reduction.

The company's response is that:

- Trade effluent charges are based on the treatable strength of the effluent a customer discharges into the foul sewers. The customer's wholesaler, RST Water Services, is responsible for taking samples of the customer's effluent, analysing the strengths and entering them into the CMOS accordingly. As the customer's retailer, the company is responsible for mirroring the strengths entered into the CMOS and billing the customer accordingly.
- The wholesaler amended the CMOS with the trade effluent charges for Chemical Oxygen Demand (COD) and Suspended Solids (SS) for the financial year of 2019 – 2020. Consequently, the company updated its COD and SS values in line with the values held on the CMOS and updated the charges for the upcoming year. During this process, it realised that its previous charges for trade effluent were not in line with the market and its system was updated accordingly.
- This amendment resulted in an increase on the customer's account balance and the customer was sent revised invoices with backdated charges for the twenty one month period between April 2017 and December 2018. When the customer complained, it accepted that, under its charging scheme, backdated charges are limited to a sixteen month period. To rectify the mistake, it credited the customer's account with £2,722.77. However, the remaining balance is correct and payable.
- As a gesture of goodwill, it offered the customer £500.00 and a payment plan to ensure the customer is not disadvantaged as a result of the billing correction. The customer refused this offer.
- On 19 March 2019, it applied three Guaranteed Standards Scheme payments of £20.00 each to the customer's account, in line with guidelines set out by OFWAT, the industry regulator. These payments were made in recognition of three customer service failings; backdating the charges further than sixteen months, failing to respond within ten business days and applying a billing correction. It denies any further liability.

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 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. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. This means that as an adjudicator operating under the Water Redress Scheme, I can only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler, RST Water Services, has responsibility.
2. Having reviewed the evidence presented by the parties, I accept that the wholesaler is responsible for taking samples of the customer's effluent, deciding the strengths and entering them into the CMOS accordingly. I also accept that the company, as the customer's retailer, is responsible for billing the customer in accordance with the strengths entered into the CMOS by the wholesaler.
3. Having reviewed the evidence, I find that the company has made, and admits to making, two mistakes; firstly, erroneously undercharging the customer for trade effluent between April 2017 and December 2018 and, secondly, applying backdated charges to the customer's account beyond the limit of sixteen months prescribed within the company's charging scheme.
4. The evidence demonstrates that the charges applied to the customer's account from April 2017 were incorrect and did not reflect the charges entered into the CMOS by the wholesaler. This mistake resulted in substantial backdated charges being applied to the customer's account; however, I cannot direct the company to reduce the charges unless the evidence demonstrates that the charges are incorrect, or that the company is not entitled to apply backdated charges to the customer's account.

5. Under the Water Industry Act 1991, the company is entitled to charge the customer for trade effluent and there is no evidence to suggest that the amount charged is incorrect. Therefore, I cannot find that the company has failed to provide its services to the standard to be reasonably expected by the average person by applying the correct charges to the customer's account, unless the company is not entitled to backdate the charges.
6. The company refers me to section 5.13 of its charging scheme that states "in the event that the amounts invoiced to you are incorrect for any reason that may be determined by us, we may send further invoices to you in order to recover the amounts which should have been due, up to a maximum of sixteen (16) months after the amounts became due." Therefore, I accept that the company is entitled to backdate the customer's charges for a sixteen month period.
7. The evidence confirms that the company erroneously backdated the charges for twenty one months and, on balance, I find that the company failed to provide its service to the expected standard in this regard. However, the evidence demonstrates that the company rectified this error by removing the backdated charges for the period from April 2017 to August 2018.
8. On balance, I find that the company has now applied backdated charges for a sixteen month period and is entitled to do so under its charging scheme. Therefore, I do not find that the company failed to provide its services to the standard the customer is reasonably entitled to expect by backdating the correct charges to the customer's account for a sixteen month period.
9. In view of the above, whilst I appreciate that this is not the outcome the customer hoped for, there is no statutory or policy basis on which I can direct the company to reduce the charges and, therefore, the customer's claim cannot succeed.
10. The evidence also demonstrates that the company has satisfied its liability under the Guaranteed Standards Scheme guidelines set out by Ofwat, the industry regulator. The company has made three separate payments of £20.00 each in recognition of its failure to issue correct bills for trade effluent, its failure to comply with its charging scheme and its failure to respond to the customer within stated time limits. As there is no evidence of further customer service failings, I make no further direction to the company 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.

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 20 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.

KS Wilks

Katharine Wilks

Adjudicator