

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1495

Date of Decision: 11 July 2019

Complaint

The customer's claim is since 3 November 2011 the company has wrongfully charged in respect of surface water drainage (SWD) charges. As customer's site is split, the company due to a lower square meterage should have placed the customer within charging band 11 in November 2011, rather than band 12. The customer is seeking the company to refund £4,856.71 which equates to the additional charges incurred since 1 April 2012 due to the incorrect banding.

Defence

The company submits that as a retailer it has to abide by the wholesaler's scheme of charges, policies and processes. Accordingly, the company can only reverse charges in line with the wholesaler's policy, which is until 1 April 2018, the start of the financial year that it was made aware of the changes to the customer's site. The company's responsibility is to challenge the wholesaler on behalf of the customer, which it has done. Furthermore, the company has provided a good level of service at all times throughout its dialogue with the customer and therefore the company is not liable for any damages in this respect. The company has not made any further offers of settlement.

Findings

I am satisfied the evidence points to the fact the company did not fail to provide its services to the customer to the standard to be reasonably expected regarding the surface water highway drainage charges. The reasons and evidence provided by the customer are not sufficient to justify his claim that he should be reimbursed the sum of £4,856.71. Furthermore, I am satisfied there have been no failings with regard to customer service as I find the company has provided a good level of service at all times throughout its dialogue with the customer.

Outcome

The company needs to take no following further action.

- The customer must reply by 8 August 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 11 July 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company wrongfully charged the customer in respect of SWD charges from 3 November 2011.
- Furthermore, the company should have been aware since 2011 that two businesses occupied the customer's property site, as at that time the site was split as recorded in the business rates valuation lists.
- Accordingly, the customer should have not been charged at band 12 rates from November 2011 to April 2018, but rather band 11 which reflects its lower square meterage.
- The customer is seeking the company to refund six years of additional charges which equates to £4,856.71.

The company's response is that:

- As a retailer the company has to abide by the wholesaler's scheme of charges, policies and processes.
- Until 23 April 2018, the company was not informed by the customer that its site had been split for the purposes of the SWD charges.
- Accordingly, the company can only reverse charges in line with the wholesaler's policy, which is from the start of the financial year that it was made aware of the changes of the customer's site, 1 April 2018.
- There were no failings in customer service during the company's dialogue with the customer and therefore no damages are due in this respect.

How is a WATRS decision reached?

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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 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 I have not considered it in reaching my decision.

How was this decision reached?

1. The dispute centres on whether the company incorrectly charged the customer SWD charges between November 2011 to April 2019. The company is required to meet the standards set out in the Water Industry Act 1991.
2. Since April 2017, a non-household customer only has a relationship with the company not the wholesaler. Therefore, if a non-household customer has an issue with their water supply or sewerage services, they have to approach the company, who is responsible to chase the wholesaler and try to resolve the matter. Accordingly, it must be borne in mind by all parties that within this decision I cannot find the company liable for something that only the wholesaler is liable for.
3. Furthermore, the company also has certain obligations in respect of its customer services as set out in OFWAT Guaranteed Standards Scheme (GSS) and the company's own Customer Guarantee Scheme (CGS).
4. From the evidence put forward by the customer and the company, I understand the customer's site contained two businesses, the customer's and a plumber's merchant. Up until 18 January 2018, both businesses had a shared water supply pipe and one meter, with the customer paying

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for all the charges. From January 2018 a separate supply and meter was installed for the plumber's merchant. With regard to the SWD charges, the evidence shows that the customer historically paid the SWD charges for the site as a whole, basis charge band 12. These SWD charges were related to waste water discharging to the public foul sewer and calculated on a fixed volume of between 7,500m³ and 9,999m³ per annum, as determined by the wholesaler. In April 2018, the customer's representative contacted the company to advise that the site had been split and the charges should be revaluated. The evidence shows the wholesaler then visited the site after this date and revaluated the split site square meterage and the customer's site was reassessed at 6,323m³ which placed it in band 11(4,000 m³ – 7,499m³). Following this site visit, a review of the bandings was carried out by the wholesaler in May 2018 and the customer's banding was reduced from band 12 to 11. The company states that in line with the wholesaler's policy, the reduction in the charging band would only be effective from the 1 April 2018, as it had been informed on the 23 April 2018. The customer disputed this and stated that the site had been split since November 2011 as shown by the business rates valuation lists. Therefore, the company should back date the charges for the maximum six-year period.

5. With regard to the customer's comments that it should be refunded the difference between the bands. Since 3 November 2011, both sites have been rated in the business rates valuation lists as two hereditaments and the customer is of the view that the company should have been aware of this fact. Accordingly, the higher banding should have not been imposed from this date. Whilst I sympathise with the customer's view, I find that until such time as the company and/or the wholesaler had been notified that the customer has official split the site, they cannot be expected to aware of the customer's changed circumstances. The evidence shows the company was not notified until 23 April 2018 that there was a change in the way the customer should be charged due to a change in the site. The company within its defence states it has to abide by the wholesaler's scheme of charges, policies and processes. On careful review of all the evidence, I am satisfied with the company's position that it is the customer's responsibility to inform the company or the wholesaler at the time of any amendments made to their site which may affect the way they are charged. Furthermore, I am satisfied with the company's position that in line the wholesaler policy found on page 16 section B2.3.4 it will only back date the charges to the start of the financial year that they were made aware of the change. Accordingly, I find the customer's claim to have the SWD charges back dated to April 2012 fails.
6. The company has certain obligations in respect of its customer services. From the evidence provided I am satisfied that by the end of the company's dialogue with the customer, the

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company had adequately explained the reasons behind why it could not back date the charges beyond 1 April 2018.

7. In light of the above, I find the customer has not proven the company failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to the SWD charges, nor has the customer proved the company failed to provide services to the standard to be reasonably expected when investigating these issues with the wholesaler. Furthermore, I am satisfied there have been no failings with regard to customer service as the company has provided a good level of service throughout its dialogue with the customer.

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 8 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 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.



**Mark Ledger FCI Arb
Adjudicator**

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