

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1562

Date of Decision: 25 September 2019

Complaint

The customer's mortgage application for a property she wished to purchase within the catchment area of an outstanding school was rejected. She discovered this was due to the company incorrectly reporting arrears on her credit file in relation to a property she did not own. The customer claims that company's "incompetence" has had an enormous impact on her family's life; her son was not offered a place at her first choice primary school as she did not reside in the catchment area. The customer requests £10,000.00 in compensation.

Defence

The company accepts that it set up an account in the customer's name for an address that she did not own or have any affiliation with; this was due to information it received from a third party credit reference agency that it had asked to validate residency at the address in question. It has amended its processes and paid the customer a goodwill gesture of £600.00 in recognition of the inconvenience caused/ her mortgage application being rejected. The company made no settlement offer.

Findings

The company incorrectly set up an account in the customer's name for an address she had no connection with and further, it incorrectly reported arrears on the customer's credit file resulting in a poor credit score. This is evidence of the company failing to provide its services to a reasonably expected standard. Due to the serious nature of its error and the negative impact and stress and inconvenience caused to the customer, I find it is liable to pay the customer a further amount of £650.00 in compensation.

Outcome

The company shall pay the customer £650.00 in compensation.

The customer must reply by 23/10/2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1562

Date of Decision: 25 September 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- She attempted to obtain a mortgage for a property and her application was rejected as a result of a poor credit score. It transpired that this was due to the company having incorrectly recorded her as liable for charges at a different property that she did not own and had no affiliation with.
- The property that she had wished to purchase was located in a village that was within the catchment area of a primary school that she wanted her son to attend. Therefore, as a direct result of the company's error, her mortgage application was declined and her son was not offered a place at an outstanding primary school as she did not reside in the catchment area.
- She now faces the increased difficulty of trying to purchase another property in her chosen village, whilst in the meantime her son is forced to attend an 'inferior' school or face the prospect of moving him to an alternative school again (which is not her preferred school) and it remains deeply upsetting for him.
- The error has caused defamation of character; as a magistrate, her reputation is valuable. The company's mistake has caused her integrity to be questioned.
- She is unhappy that this has been ongoing for eight months and it has had an enormous impact on her family's life and she asserts it will continue to negatively impact on her son's quality of life.
- The customer seeks £10,000.00 in compensation from the company.

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The company's response is that:

- On 22 December 2017, it “bought into charge” the customer for water and waste water services at [], following its request for information from TransUnion (trading as Call Credit at this time); a Credit Reference Agency (CRA), to validate residency for [Green Barn]. For the period it had allocated the customer as the responsible person for this address, it reported on her credit file that no payment had been received and there was also no contact from her on this matter.
- When the customer contacted it on Friday 26 October 2018, she flagged the error which had negatively impacted her credit score. It corrected its records to show the customer was not responsible and amended her credit file by Monday 29 October 2018. Evidence provided by the customer shows she received the initial notification from ‘BB Mortgages’ on 19 October 2018, one week prior to contacting it.
- In early November 2018, it offered a gesture of goodwill of £100.00 in light of the error. Following a Stage one complaint received through the Consumer Council for Water (CCW) in February 2019 and further investigation and discussions, this was increased to a further £500.00 (totalling £600.00) and a refund for this amount was issued. The customer accepted both figures in November 2018 and March 2019 respectively, in response to the error.
- In March 2019, the customer contacted it to advise she remained unhappy with the gesture of goodwill payments, but did not confirm how much more would be acceptable, or send in any evidence of her losses.
- Therefore, it acknowledges that the information on the customer's file was incorrect. However, when it initially opened an account for the customer at Green Barn, it believed the information received from TransUnion (formerly Call Credit) was correct and acted in good faith to recover charges for services used.
- It has since updated its procedures, whereby a check of the full property address is undertaken and is shown as an exact match of the address sent to TransUnion before an account is set up.
- The error was corrected within one working day of it being brought to its attention and that there is no evidence to show that: (i) the error led to the mortgage being declined; (ii) even if that were the regrettable case, that mortgage or another mortgage could not have been applied or re-applied for after the immediate correction took place; and there is no evidence to show that had the customer purchased the house in question, that her son would automatically have received a place at their preferred school. There is no evidence of loss or distress directly arising from the error and the customer has “simply looked to claim the largest amount of compensation available rather than quantify and/or mitigate her losses”.

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- If it makes an error it would normally apply a goodwill gesture payment of £25.00 for each service failing, but on this occasion it understands this has caused some inconvenience for the customer, so the amount offered was substantially higher. The figure of £600.00 is considered to be a fair and reasonable figure for the impact caused in October 2018. It has offered and paid sums of £100.00 and £500.00, which on both occasions was accepted by the customer.

Customer's reply is that:

- The customer asserts that the company uses an accusatory tone throughout its Defence and suggests more than once that she is at fault when, in fact, she is the victim in this matter. The customer asks how is she able to put a price on a mortgage being declined due to the company's "colossal incompetence" and as a direct result, missing out on purchasing a specific property; and therefore, most importantly her (then) four year old son not being offered a place at an outstanding primary school and having to settle for one rated good only.
- She has submitted evidence to prove that the company's error directly resulted in her mortgage being declined. She asserts that as she was unable to submit her mortgage offer, the vendors went with another interested party whose own mortgage was already in place; therefore she did not apply for another mortgage.
- She contests the company's following statement: "*There is no evidence of loss or distress directly arising from the error and Mrs (please note this error in my title) [] has simply looked to claim the largest amount of compensation available rather than quantify and/or mitigate her losses*". The customer asserts it is "incredulous" to suggest that she has not been caused distress by the company's error and the resulting impact that it is had on her life.
- She also comments on the link included in its Defence to the admission criteria on the government website, reiterating that children residing closet to the school are given priority in being offered a place at the school and asserts that this was the precise reason she wished to purchase the property.

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.

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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. The dispute stems from the company erroneously making the customer responsible for charges associated with an address that she did not own or have any affiliation with. The customer submits that as a direct result of this, her mortgage application was declined (due to the poor credit score this caused) which, in turn, meant her son was not offered a place at her (first choice) primary school. She believes the company's error constitutes defamation of her character and the customer claims compensation from the company for the negative impact this has had on her and her family's lives.
2. At this juncture, I must remind the parties that I cannot consider the customer's allegation of defamation of her character by the company (due to the false information published on her credit file), as I find this raises a complicated issue of law and therefore falls outside of the scope of WATRS, in accordance with Rules 3.4.1 and 3.4.3. However, I confirm that I am able to consider if the company provided its service to the standard to be reasonably expected when dealing with the customer including in relation to the disputed issue.
3. The company admits it incorrectly set up an account in the customer's name for the address: [Green Barn] ('the Address') and furthermore confirms that it (incorrectly) reported on the customer's credit file that no payment had been received for the account. I am satisfied this is evidence of the company failing to provide its services to a reasonably expected standard.
4. The company has explained that following its request to TransUnion (formerly known as Call Credit) in December 2017 to validate residency for the Address, it was given the customer's

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details as TransUnion had incorrectly matched her (actual) address: [] with the Address. Whilst I accept the company's assertion that it acted on the information it received in good faith, I find that nevertheless, it is responsible for incorrectly setting up an account in the customer's name. The company has confirmed that it has since updated its procedures, whereby a check of the full property address is undertaken and is shown as an exact match of the address sent to TransUnion before an account is set up. As such, I consider that the procedure formerly in place that did not require an exact property match, was not sufficiently robust and, in the customer's case, it led to the company incorrectly naming the customer as the responsible person.

5. The company has demonstrated that it rectified its error by cancelling the charges and removing trace of the reporting on the customer's credit file by 29 October 2018 (within one working day of it being brought to its attention). However, I can see from the company's notes of a call it had with the customer on 30 October 2018 that the customer explained to the company, that her mortgage lender (BB Mortgages) told her that the decision in principle had been rejected and that there was no way of changing this decision, even once the credit file had been updated, so she lost the house she wanted to buy.
6. The company in its Defence has suggested that the customer could have taken steps to re-apply for a mortgage (following the removal of defaults) and further, it asserts that there is no evidence to show that had the customer purchased the house in question, that her son would automatically have received a place at her preferred school. I acknowledge that in her Reply the customer strongly refutes the company's above submissions and reiterates that she lost the opportunity to purchase the house as the vendors went with another interested party whose own mortgage was already in place (when her mortgage application was declined). Further, the customer has explained that only children closest to the school in question are offered places hence why she wished to purchase the property and the reason for her son not been offered a place at her first choice school (after she was unable to purchase the property).
7. The customer has provided evidence dated 19 October 2018 from BB Mortgages that I am satisfied establishes her mortgage application was declined due to the poor credit score I accept was caused by the company's error. The customer has also included the letter from [] County Council that confirms her first choice school was not offered. Whilst I accept the

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company's suggestion that the evidence submitted does not conclusively prove either that a) there was nothing else the customer could have reasonably done to secure her purchase of the house in question and b) the customer's first choice school would have been offered had she purchased the house, I am also mindful that it would be very difficult for the customer to provide evidence to prove a) and b). Regardless, in light of the evidence submitted to me, it is clear that the company's error has had significant consequences for the customer and her family.

8. I acknowledge that the company paid the customer a £100.00 goodwill gesture in November 2018 due to her losing her mortgage for the property in her preferred location. Further, on its receipt of a complaint from CCW (made on the customer's behalf), the company agreed on 15 March 2019 to pay the customer a further amount of £500.00 in recognition of the customer's mortgage application being rejected. However, due to the serious nature of the error and the significant resulting stress and inconvenience I accept was caused to the customer, I do not find that the amount paid is adequate recompense in the circumstances. I find it reasonable to direct that the company pay the customer a further measure of compensation for the inconvenience caused. However, as above, I have found that aspects of the claim fall outside of the scope of WATRS and I am not satisfied that the company's proven service shortfall justifies the amount sought of £10,000.00. In the circumstances, I find that the company shall pay the customer a further amount of £650.00 for the negative impact and stress and inconvenience caused; this amount (together with the £600.00 already paid) falls into Tier 3 of the WATRS Guide for Compensation for Inconvenience and Distress. I am satisfied this amount is reasonable and proportionate to the company's proven service shortfall.

Outcome

The company shall pay the customer £650.00 in compensation.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by [] 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.
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A. Jennings-Mitchell, Ba (Hons), DipLaw, PgDip (Legal Practice), MCIArb

Adjudicator

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