

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1616

Date of Decision: 1 November 2019

Complaint

The customers submit that following their notification to the company that wastewater from their property is deposited into a septic tank and not the company's sewerage system, the company provided a rebate. However, the amount credited represented only a partial rebate of wastewater charges paid over the past sixteen years since 2003; the company refused to provide a rebate of more than six years. The customer submits this is unjust and requests that the company pay them compensation of £1500.00 (the outstanding overpayment plus anxiety and worry).

Defence

The company asserts that (future) wastewater charges have now been removed from the customers' account and that a credit of £953.45 has been applied for all wastewater charges paid since 1 April 2013. As this refund is in line with its policy of limiting wastewater rebates and in accordance with the Limitation Act 1980, it is not liable to provide any further refund to the customers. The company made no offer of settlement.

Findings

The company provided the customers with a refund of £953.45 (by way of a credit applied to the customers' account) for wastewater charges paid dating back six years to 1 April 2013, on receiving notification in July 2019 that the customers' wastewater does not enter the mains sewer. As the company has demonstrated that the rebate provided is in line with its policy (approved by regulator Ofwat) and as there is a lack of evidence that the company was aware of the site (within which the property is located) having a septic tank, there is no evidence to establish it failed to provide its services to a reasonably expected standard. As a consequence, it is not liable to provide any further refund to the customers.

Outcome

The company is not required to taken any further action.

The customer must reply by 29 November 2019 to accept or reject this decision.

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- The refund and removal of future wastewater charges was issued as it was brought to RST and its attention that the customers' property and seventy-four other properties in the vicinity are not connected to its wastewater network.
- It owns the wastewater network in the area and RST bill customers on its behalf that are connected to the wastewater network.
- On 25 July 2019, it received an email from RST which included a letter from the Residents Association of the site that the customers live at. In the letter, it explained that all the properties in Green Lane drain their wastewater into a private cesspit rather than the wastewater network it owns.
- It instructed RST to refund the customers (and all residents of Green Lane) wastewater charges paid back to 1 April 2013 and remove the wastewater charge going forward. The customers received a credit to their RST account of £953.45 and it wrote to the customer advising of the same and explaining that its actions were in line with legislation (Limitation Act 1980) and its policy.
- Therefore, within three weeks of first being notified that the customers' home drained their wastewater into a cesspit, they had been credited by RST for their wastewater charges back to 1 April 2013 and, future wastewater charges had been removed from their account.
- It also responded to the complaint is received from the Consumer Council for Water (on behalf of the customers), providing its final position in relation to the complaint on 28 August 2019.
- RST has confirmed that they have been billing some properties at the Red Acre Estate since 1999. Due to the time that has passed there are no records of applications for water services to the site where the customers' home is. As such, it is unclear what information was provided to RST or itself with regards to drainage at the site by the developer.
- Unfortunately, neither it nor RST knew of the existence of a septic tank at the Red Acre Estate until it was notified by the Residents Association and the manager of the estate in July 2019. As the customers' account has now been credited for all wastewater charges paid back to 1 April 2013, in line with its policy, it cannot consider the claim.

Reply

- In their Reply, the customers assert: *"it is not easy to fight utility companies and being in our 70s and 80s, it's even harder"*. The customers reiterate that they paid sewage charges to the company in good faith without knowing they were not receiving the service they were paying for. They assert that their claim of £1500.00 is "a drop in the ocean" to the company yet this money is how they *"eat, keep warm and live"*.

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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. I remind the parties that WATRS is an evidence based scheme where assertions are made by either party without supporting evidence, they are unlikely to be accepted as accurate.
2. The dispute relates to the customers' request for a rebate of wastewater charges paid since they moved into the property: [] ('the Property'), on 15 August 2003.
3. It is not in dispute that the Property's wastewater is disposed into a septic tank on site (Blue House) and that the Property has never been connected to the main sewer system yet the customers had been paying the company (via RST) wastewater charges. The customers first contacted the company on or around 24 July 2019 (via RST) advising them of the above situation and requesting that wastewater charges are removed from their account and for a refund of the charges paid.
4. The company provided a credit to the customers' water account (with RST) in the sum of £953.45 in or around August 2019, however, the customers are unhappy because this amount represents only a partial rebate of the payments made to the company (via RST)

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since they moved into the Property in 2003; it does not include payments made from 15 August 2003 to 1 April 2013.

5. The company contends that the rebate for the past six years charges, is in line with legislation (Limitation Act 1980) and its policy.
6. I acknowledge that the Limitation Act 1980 adviRST of timescales within which action may be taken by a claimant for breaches of the law. Although I remind the parties that, whilst I am obliged to take account of the law in reaching my decision, the law is not strictly applied in these adjudication proceedings. However, the company has supplied evidence documenting its policy of limiting wastewater rebates, such as the customers', to six years. I find that the policy document submitted within its Defence states, in effect, that where a customer evidences that they have a septic tank or cesspit and are not connected to its sewer system, it will: *"remove their wastewater charges from when their account was opened, up to a maximum of six years"*. I am therefore satisfied that the rebate provided to the customers, covering payments made over the past six year (since April 2013), is in accordance with the company's own policy. Furthermore, I am satisfied that the company's policy has been approved by the regulator, OFWAT.
7. The company contends that it was unaware of the existence of a cesspit on site until it was notified by the Residents Association and the manager of the estate (within which the Property is located) in July 2019. I have not been provided with any evidence showing the contrary, i.e. that the company was made aware of the fact that the Property was not connected to the main sewer (for example by way of an application from the site developer setting out the water/sewerage arrangements, at the time of development). Therefore, on balance, I accept its assertion that it was unaware of the existence of a cesspit on site until notified of this in July 2019. In light of this, I do not consider that the wastewater charges billed to the customers (prior to July 2019) constitutes evidence of the company intentionally billing the customers, in error.
8. Therefore, based on the evidence submitted, I am satisfied that the rebate already provided to the customers is in accordance with the company's policy. Furthermore, as I am satisfied that it is reasonable for the company to limit the timescale within which customers may take action in regards to recovering overcharges where these charges date back more than six years, (in accordance with the Limitation Act 1980) as in the customer's case, I must

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conclude that the customers' claim for a refund of the overcharges for the period 15 August 2003 and 1 April 2013 cannot succeed on this basis.

9. As I find no evidence of the company failing to provide its services to a reasonably expected standard, the customer's claim for compensation of £1500.00 for "overpayment/anxiety/worry", has not been justified. Accordingly, the claim is unable to succeed.

Outcome

The company is not required to taken any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 29 November 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.



A. Jennings-Mitchell, Ba (Hons), DipLaw, PgDip (Legal Practice), MCI Arb

Adjudicator

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