WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1632

Date of Decision: 6 December 2019

Complaint

Mr Brown is the landlord of the property known as [ ] ("the Property"). The water account for the Property is in the name of his tenant. On 14 June 2019, Mr Brown's tenant telephoned him to report a leak in the kitchen. When Mr Brown arrived at the Property, he discovered the company had carried out an enforced repair on a leak in the garden, without notice or permission, and had left his block paving broken and uneven. The company had also carried out unnecessary internal works, including the installation of a new internal stop valve and the drilling of a new entry point through the outside wall, and the new valve was leaking water into the kitchen and utility room. Mr Brown telephoned the company for help, but its response was so slow and inadequate he was forced to engage a plumber to stem the leak. The plumber confirmed that the company's poor workmanship had caused the leak. Mr Brown's tenant received a bill for the enforced repair, but as the company did not notify him of the leak in the garden or ask for his consent to carry out the repair, he should not have to pay for it. Mr Brown wants the company to waive the enforced repair charges of approximately £2,600.00 and pay for the costs he has incurred as a result of its poor workmanship; £180.00 for an emergency plumber, £3,875.00 for water damage to the kitchen and utility room, £660.00 for the reinstatement of the block paving, and £16.75 for telephone calls to the company. He also claims £2,500.00 in compensation for distress and inconvenience and wants the company to apologise.

Defence

The company identified a leak on a shared private water supply pipe and, in accordance with Section 75 (2)(b) of the Water Industry Act 1991, it sent letters to the registered account holder for the Property advising of the leak. The company had no way of sending correspondence to Mr Brown as he is not named on the account. When no notification of a repair was received, the company instructed contractors to complete an enforced repair. Section 75(9) of the Water Industry Act 1991 allows the company to recover the reasonable costs of the repair, so an invoice for £2,644.65 was issued to the tenant on 22 June 2019. As the correct process was followed, and a leak on the private supply pipe was found, the company considers these charges payable. On 14

June 2019, Mr Brown telephoned to report an internal leak at the Property. The company sent a waste-water team to the Property on 17 June 2019, but it was unable to help as the pipework was leaking clean water. It visited again on 21 and 26 June 2019, but the leak had already been repaired by Mr Brown's friend. Mr Brown has provided no evidence to show that the leak caused water damage, or that the leak was caused by the poor workmanship of the company's contractor. Photographs taken by the company during visits do not show any water damage; the damage visible is more consistent with age and general wear and tear. Therefore, the company will not cover the costs of any repairs to the kitchen and utility room. The company has carried out further remedial works to the block paving but there is no evidence to show that its contractor caused the damage Mr Brown now wants repaired. In any event, it is the property owner's responsibility to arrange reinstatement after an enforced repair. The company apologises for the customer failings experienced by Mr Brown; two Guaranteed Standards payments of £40.00 each have been made as substantive replies were not sent to his written complaints in the required timeframe. The company has also offered Mr Brown a further £150.00 as a gesture of goodwill; however, all further liability is denied.

The company has not made an offer of settlement.

Findings

The claim has been filed by Mr John Brown, the landlord of the Property, but the WATRS application form states that the water services account for the Property is in the name of Mr Brown's tenant. The evidence presented by the company also confirms that Mr Brown is not named on the water services account. Section Rule 2.1.1 of the WATRS Scheme Rules defines a 'customer' who is eligible to apply to the Scheme as "a person/s who receives water and/or sewerage services provided by a company in the course of its business as a statutory undertaker and/or a statutory licensee (i.e. a statutory water supply and/or sewerage licensee), including but not limited to the person/s on whom liability to pay charges for such services would fall." As the tenant of the Property is in receipt of services provided by the company, and the water services account is in the tenant's name, I find that the tenant would be the 'customer' under Rule 2.1.1, not the landlord. Consequently, as an adjudicator operating under the Scheme, I am unable to consider the claims made by Mr Brown as he is not considered the 'customer' under Rule 2.1.1.

Outcome

The company does not need to take any further action.

The customer must reply by 8 January 2020 to accept or reject this decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1632

Date of Decision: 6 December 2019

Party Details

Claimant: [ ].

Company: [ ].

Case Outline

Mr Brown's complaint is that:

- He is the landlord of the Property and the water account for the Property is in the name of his tenant. The Property is served by a shared supply with three other properties.
- On 14 June 2019, his tenant telephoned to report a leak in the kitchen. When he arrived at the Property, he discovered the company had carried out an enforced repair on a leak in the garden and carried out unnecessary internal works, including the installation of a new internal stop valve and the drilling of a new entry point through the outside wall.
- The leak was flooding the kitchen and the utility room, so he telephoned the company for help. He was told that no one would be available until 16 June 2019, even though he explained that the situation was urgent.
- He managed to reduce the flow to a trickle by turning the compression fitting three quarters of a turn; it was evident this had not been tightened sufficiently when it had been installed by the company and had been leaking for approximately fourteen days.
- On 17 June 2019, he contacted the company to explain that the pipework was still leaking and could not be tightened any further as the work was a "make do job" with new fittings poorly connected to old painted fittings. He was told somebody would call him back and there would be no charge for the repair. Nobody called him back but later in the day the company sent a team to the Property to carry out a repair; however, when they examined the leak they said they were 'drainage men' and they could not touch the leak in case something went wrong. At this point, he had no choice but to call a plumber who attended the Property, repaired the leak, and

confirmed that the company's workmanship on the pipework was extremely poor and had caused the leak.

- On 21 June 2019 the plumber who had initially carried out the works returned to the property to tidy up the pipework. The plumber apologised for the mess and said the pipework was hard to work on because it was old. He showed the plumber the damage that had occurred due to his poor workmanship; the kitchen flooring was floating and broken, the laminate flooring in the utility room was peeling and swollen, the skirting was saturated, the walls were damp, and the cupboards were peeling and damp.
- His tenant received a bill for the enforced repair but, as the company did not notify him of the leak in the garden and he did not consent to the repair, he should not have to pay for it. Furthermore, the amount claimed is for four days of work, but the enforced repair only took a day and a half.
- The company's reinstatement of the block paving in the garden after the enforced repair was poor and dangerous. The company returned to carry out further reinstatement after he complained, but the block paving was still broken and uneven.
- The customer service provided by the company has been very poor; he was promised call backs that did not materialise, and the company has not answered his emails. Furthermore, the communication with his tenant was inadequate and unclear.
- He wants the company to waive the enforced repair charges of approximately £2,644.65.
- He wants the company to pay for the costs he has incurred as a result of its poor workmanship; £180.00 for an emergency plumber, £3,875.00 for repairs to the water damaged kitchen and utility room, £660.00 for the reinstatement of the block paving, and £16.75 for telephone calls to the company.
- He claims £2,500.00 in compensation for distress and inconvenience, and he wants the company to apologise for causing the leak and for the stress he has suffered as a result of it.

The company's response is that:

- It identified a leak on a shared private water supply pipe and, in accordance with Section 75 (2)(b) of the Water Industry Act 1991, it sent letters to the registered account holder for the Property advising of the leak. The letters advised the customer to contact their landlord if they are a tenant. It also spoke to the tenant of the Property and she requested a letter to pass on to her landlord/letting agent. It had no way of sending correspondence to Mr Brown as he is not named as a third party on the account and is not named as the landlord of the Property. When no notification of a repair was received, it instructed contractors to complete an enforced repair.

- A contractor attended the Property between 28 and 31 May 2019 to carry out the investigations needed to locate the leak and complete the work needed to repair it. In order to bypass the leak, new pipework was laid and a new point of entry for the new pipework was installed. After completing the work, the contractor confirmed that there were no further leaks.
- Section 75(9) of the Water Industry Act 1991 allows it to recover the reasonable costs of the repair. In the case of a leak on a shared private supply pipe, only those properties downstream of the leak are liable for costs. In this instance, only the Property was downstream of the leak so an invoice for the full costs of £2,644.65 was issued to the tenant on 22 June 2019. As the correct process was followed, and a leak on the private supply pipe was found, it considers these charges payable.
- On 14 June 2019, Mr Brown telephoned to advise that there was an internal leak at the Property. The company sent a waste-water team to the Property on 17 June 2019, but it was unable to help because the pipework was leaking clean water. It visited again on 21 and 26 June 2019, but the leak had already been repaired by Mr Brown's friend.
- Mr Brown has provided no evidence to show that the leak caused water damage at the Property, or that the leak was caused by the poor workmanship of its contractor. Photographs taken during its visits do not show any water damage; the damage visible is more consistent with age and general wear and tear. Therefore, it will not consider covering the cost of any repairs.
- Regarding Mr Brown's concerns about the reinstatement of the block paving, it arranged for further remedial works to be carried out on 17 June 2019. While Mr Brown has provided a quotation for further work to the block paving, there is no evidence to show that its contractor caused the damage Mr Brown now wants repaired.
- Furthermore, when it excavates a hole as part of an enforced repair, it ensures the hole is made safe by reinstating it with black tarmac. It does not reinstate on a like for like basis; this was confirmed in the letters sent on 7 and 18 May 2019. It is the property owner's responsibility to arrange any further reinstatement work required, however, on this occasion, it re-laid the block paving lifted during the enforced repair.
- It accepts that there have been some failures in the customer service provided to Mr Brown; two Guaranteed Standards payments of £40.00 each have been made because it failed to provide substantive replies to Mr Brown's written complaints in the required timeframe. It has also offered Mr Brown a further £150.00 as a gesture of goodwill in recognition of the customer service failings. It apologises to Mr Brown for any stress or inconvenience this has caused him. However, all further liability is denied.

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. The application to WATRS has been filed by Mr John Brown, the landlord of the Property, but the application states that the water services account is in the name of his tenant. The evidence presented by the company confirms that Mr Brown is not named on the water services account.

2. Section Rule 2.1 of the WATRS Scheme Rules states:

   "The following are eligible to make applications to the Scheme (provided that the subject matter of the complaint meets the criteria outlined in Section 3):

   2.1.1 a person/s who receives water and/or sewerage services provided by a company in the course of its business as a statutory undertaker and/or a statutory licensee (i.e. a statutory water supply and/or sewerage licensee), including but not limited to the person/s on whom liability to pay charges for such services would fall;

   2.1.2 the person/s to whom water and/or sewerage services are provided or are to be or have been provided by the company in the course of its business as a statutory undertaker and/or a statutory licensee, and the person/s who wish to have such services provided by such a company.

For the avoidance of doubt, the definition of a 'customer' in this Rule includes companies, developers and self-lay organisations."

3. As the tenant of the Property is in receipt of the services provided by the company, and the water services account is in the tenant's name, I find that the tenant would be the 'customer' under Rule 2.1.1, not the landlord.

4. Consequently, as an adjudicator operating under the Scheme, I am unable to consider any claims made by the landlord as he is not considered the 'customer' under Rule 2.1.1. I appreciate that this decision will frustrate and disappoint Mr Brown but, due to the above, the claim is out of the scope of the Scheme and I cannot adjudicate upon it.

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 January 2020 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

KS Wilks

Katharine Wilks

Adjudicator