

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1891 – Metering – Problems with metered and unmeasured bills

Date of Decision: 24 April 2020

#### Complaint

The customer states that he has been billed incorrectly due to a faulty meter. He requests an apology, that regular meter reads be undertaken and that the August 2018 bill be reduced so that it is based on consumption equivalent to regular usage.

#### Defence

The company acknowledges that failings in its duty of care have occurred, but compensation of £320.00 has already been paid to the customer. There is insufficient evidence that the meter was not functioning correctly.

The customer has received goodwill payments of £320.00 and all late payment fees have been removed from the account. The company is willing to offer the customer a payment plan.

#### Findings

The company failed to provide its services to the customer to the standard to be reasonably expected by the average person by failing to offer the customer the opportunity to have the meter tested upon removal.

#### Outcome

The company needs to take the following further action: It must pay the customer compensation of £460.00.

The customer must reply by 21 May 2020 to accept or reject this decision.

*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.*

# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1891

Date of Decision: 23 April 2020

## Party Details

**Customer:** The Customer

**Company:** XWater

## Case Outline

### **The customer's complaint is that:**

- He received an unusually high bill in August 2018.
- The meter was identified as faulty and was exchanged in April 2019.
- He was not offered the opportunity to have the old meter tested.
- The August 2018 bill is not comparable to historic consumption.
- Regular meter reads were not taken and most bills were based on estimated reads.
- He requests an apology, that regular meter reads be undertaken and that the August 2018 bill be reduced so that it is based on consumption equivalent to regular usage.

### **The company's response is that:**

- The customer made contact on 25 July 2018 to request a meter read as he was uncertain if he was reading the correct meter.
- He gave a reading of 482m<sup>3</sup>, which was recorded on his account.
- The most recent actual reading was taken on 14 February 2017, for 7,837m<sup>3</sup>.
- A comparison of these two readings indicated that the estimated reads the company had been using had been under-estimates.
- The company arranged for a meter reading on 22 August 2018, which was 524m<sup>3</sup>.
- As this reading was in line with the reading taken by the customer it was added to his account and the customer was billed.

*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.*

- The customer made contact on 21 March 2019 as he had been advised by the company that his direct debit was increasing from £318.28 to £540.00.
- The customer made contact again on 28 March 2019, explaining that he had taken a meter reading of 5,021m<sup>3</sup> at the close of business, but a later reading had been 1,206m<sup>3</sup>.
- The wholesaler was requested to undertake a meter repair or replacement.
- Readings on the customer's meter were questioned to the wholesaler. The wholesaler confirmed that the readings were consistent and that although the meter had been exchanged due to an electrical fault, it had still been recording accurately.
- The high bill in August 2018 resulted because the meter had not been read for 17 months.
- While the company aims to read meters every six months, Ofwat's requirement is that meters be read every two years.
- The customer has received goodwill payments of £320.00 and all late payment fees have been removed from the account.
- The company is willing to offer the customer a payment plan.

### 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.

*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.*

## How was this decision reached?

1. The parties' dispute centers on the accuracy of the original meter at the Property, which was exchanged by the wholesaler. However, the documentation produced by the company shows that when the meter was exchanged, the customer was not offered the opportunity to have the meter tested, even though the meter was being examined because the customer had reported it to be "jumping".
2. I find that it constituted a failure by the company to fulfill its duty of care to the customer to not offer the customer the opportunity to have the meter tested, when the company was aware that the accuracy of the meter was in question. The customer had the right to make such a request on his own initiative, but I do not find that it would be reasonable to expect the customer to have the company's understanding of water meters and the opportunities available for testing of a potentially faulty meter.
3. Nonetheless, this does not itself resolve the question whether the meter was reading accurately prior to being exchanged, as the meter could have been replaced due to an electrical fault, as stated by the wholesaler, rather than because it was observed by the engineer to be "jumping", as stated by the customer.
4. In many disputes, the evidence as to precisely what happened will be to some degree unclear, and the law addresses this uncertainty through what has come to be known as the "balance of probabilities" test. Under this test, the decision-maker must look at the evidence provided by the parties, and decide what is most likely to have happened based on that evidence. Importantly, this decision is only based on the evidence provided by the parties, and so is made with full knowledge that the evidence provided may in some way be misleading, or that there may be additional evidence that would justify a different conclusion. However, as a decision must be made, it must be made based on the evidence actually provided, not on the decision-maker's unsupported speculations regarding what may or may not have happened.
5. In addition, the law requires that disputes be decided in accordance with "burdens", with the customer having the "burden" of producing evidence to support the claim. This means that if the evidence provided by the parties is evenly balanced between the accounts of the two parties, or is otherwise insufficient to justify a conclusion that the customer's account is more likely than not correct, then the customer has failed to meet the burden and the claim cannot succeed. Again,

*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.*

this evaluation must be made based on the evidence actually provided by the parties, not based on unsupported speculation by the decision-maker regarding what may or may not have happened.

6. In the present case, while few readings of the original meter are available, those readings show a relatively consistent decrease in average daily usage, with the period from 14 February 2017 to 22 August 2018 generating an average daily consumption of 4.85, the period from 22 August 2018 to 12 February 2019 generating an average daily consumption of 3.27, and the period from 12 February 2019 to 17 April 2019 generating an average daily consumption of 2.92. These readings do not in and of themselves provide evidence that the meter was reading accurately, however they also provide no evidence that the meter was reading inaccurately, and are consistent with a reduction in water usage occurring after receipt of the large August 2018 bill.
7. In addition, the customer has produced no evidence of the unusual readings that he states were being recorded by the meter, despite reporting having seen readings different by over 4,000m<sup>3</sup> within a short period of time. Given that these readings were reported shortly after the customer received an increase in his direct debit, as a means of challenging the accuracy of the meter readings, it would have been reasonable of the customer to record evidence of these variations in order to support his case that the meter was not recording accurately.
8. To be clear, I do not find that the meter was functioning correctly or that the customer did not observe the irregularities that he describes. However, as explained above, the customer bears the burden of producing evidence to support a conclusion that his account is more likely than not correct and for the reasons just given I find that he has not done so.
9. Nonetheless, while there is insufficient evidence to justify a conclusion that the customer's meter was not reading correctly, I have found that the company breached its duty of care to the customer by failing to suggest that the meter be tested once removed. Moreover, I find that this breach was substantial given that it took place in a context in which the accuracy of the meter had already been challenged by the customer and the customer had recently received an unusually large bill. While the present decision has found that there is insufficient evidence to justify a conclusion that the customer's meter was faulty, this was due in part to the fact that the meter was not tested. As a result, the customer remains liable for a substantial bill even though there is a significant, though I have found less than 50%, likelihood that the bill is based upon a faulty meter. As I have said, this constitutes a substantial breach of the company's duty of care

*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.*

to the customer, that could easily have been avoided by the simple action of highlighting to the customer that testing of the meter was a possibility (at a cost). I am of the opinion that this situation would have caused the customer significant distress.

10. In consultation with the WATRS Guide to Compensation for Inconvenience and Distress, I find that fair and appropriate compensation for this breach would consist of £500.00. However, this amount is appropriately reduced by the £40.00 already paid to the customer for this failure.

11. Consequently, for the reasons given above, the company must pay the customer compensation of £460.00.

#### **Outcome**


The company needs to take the following further action(s): It must pay the customer compensation of £460.00.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 21 May 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.

---

*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.*



Tony Cole

Tony Cole, FCI Arb

Adjudicator

*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.*

[www.WATRS.org](http://www.WATRS.org) | [applications@watrs.org](mailto:applications@watrs.org)