

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0710

Date of Decision: 16 April 2018

Complaint

The customer submits that he has been incorrectly charged for surface water drainage between 2010 and 2016 and he has received poor customer service and experienced inconvenience in connection with this issue. He seeks a refund of sums overpaid since 2010 in the amount of £7,200.00 and compensation of £500.00 for the inconvenience and time taken to seek a resolution. The customer has also made a claim for the company to improve its communications and general customer service.

Defence

The company does not accept any liability to the customer. The customer failed to notify his wastewater service provider of the sale of part of the property in 2012. The customer did not seek a rebate until 2017 and therefore the company has provided a refund backdated to 5 January 2017 and the wholesaler [](RST) has processed a further refund from 1 April 2016 in accordance with the applicable Ofwat guidance. The company has not made any offers of settlement.

Findings

The company has provided its services to the standard to be reasonably expected by the average person. It has appropriately provided the customer with a rebate for surface water drainage following notification in 2017. The customer was previously advised in 2010 to provide notification of any changes. The customer has submitted insufficient evidence to demonstrate that [](NMP) incorrectly measured the property in 2010. The company has communicated with both of the previous wholesalers and endeavoured to assist the customer with their complaint.

Outcome

The company does not need to take any further action.

The customer must reply by 15 May 2018 to accept or reject this decision.

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Party Details

Customer's Representative:[].

Customer:[].

Company:[].

Case Outline

The customer's complaint is that:

- In October 2009 an appeal was made against the water service charges and it was subsequently re-banded to "non-household band 10". The customer asserts that "nothing substantial" has changed since 2010 and it appears that he has overpaid since then.
- The customer explains that new housing was completed on part of the land in 2012, which was sold. The customer believes that the company made a mistake in 2010 and is "hiding the facts" to avoid paying a legitimate refund.
- In January 2017 the customer was advised by an independent drain contractor that the surface water charge appeared very high. The customer contacted NMP and after a great deal of "to-ing and fro-ing" an inspector attended and reduced the company's billing from band 6 to band 2. NMP authorised backdating a refund to 1 April 2016. The customer maintains that he has been overcharged from 2010.
- The customer appealed to NMP and both stages of the complaints process were completed by the same person. It has not agreed to provide a further refund.
- The customer requests the company:
 - I. Improves communications with the companies and to have one point of contact.
 - II. To provide a refund of £7,200.00 for being overcharged from 2010 to 2016.
 - III. To provide compensation of £500.00 for spending hours on the telephone during a 6 month period.

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The company's response is that:

- The customer first contacted the company on 11 September 2017 to inform it that it was incorrectly charging for surface water drainage. The company's records show that the property was being charged as a band 6, which incurs an annual charge of £407.07. The customer informed the company that this was incorrect and NMP stated it should be band 2, which has an annual charge of £54.15.
- The company did not have a record of this and only began providing services when the market opened on 1 April 2017, prior to this RST billed on behalf of NMP for surface water drainage. The company contacted NMP, which confirmed that following a visit in 2009 the surface water drainage had been reduced to a band 6 (654m² area) and provided a backdated refund to 1 April 2009. A further inspection took place at the customer's request on 26 June 2017; the property had reduced to an area of 82m² band 2. NMP confirmed the new charges needed to be backdated from 1 April 2014. This information was passed on to RST, which backdated a refund from 1 April 2016 to 5 January 2017. The company backdated the band 2 classification to 5 January 2017. A refund has been processed in accordance with Ofwat guidance.
- NMP advised within correspondence in 2010 that the customer should contact it if there were any changes to the club's infrastructure. It is the customer's responsibility to notify the company of any changes to the site. The customer did not do so until 2017.
- The company apologises that the customer has been passed from "pillar to post". The customer is a "cross border" customer and any further adjustments regarding surface water drainage need to be completed by RST and NMP, as it falls outside of the company's remit.

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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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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 must remind the parties that adjudication is an evidence-based process where the burden of proof rests on the claimant, in this case the customer, to prove his case on the balance of the evidence.
2. The customer has specified within the application that the dispute is with NMP, which is the customer's wholesaler for wastewater services. Since April 2017 non-household customers only have a contractual relationship with the retailer, (in this case DEF) and customers are unable to bring claims against the wholesaler.
3. Within the company's submissions it has included communications from NMP, which referred the customer to RST and it has also notified RST that the customer should have been provided with a refund from 1 April 2014. It is unclear why this date has been specified, as within Ofwat guidelines there is no legal obligation to backdate refunds beyond the start of the billing year. I note that the customer has already received a refund from RST backdated to 1 April 2016 to 5 January 2017 and DEF has adjusted the customer's banding from 5 January 2017 to band 2.
4. Ofwat specifies that the onus is upon the customer to apply for a rebate, as companies are unaware of the surface water drainage arrangements of all individual properties within its area. The customer was aware of the necessity to contact the company to claim a rebate as he had previously done so in 2010 and had also been advised then, that it was not possible to claim a rebate beyond the start of the billing year. The customer was also advised to contact the company if there was any change in its infrastructure.
5. Charges for surface water drainage are based on the size of the site area. The company contacted NMP to request information on previous site inspections. In 2009 the property was measured as being 654m², when the property was subsequently measured in 2017 it had an area of 82m². The communications submitted by the parties show that in 2012 new housing

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was completed on “part” of the customer’s land. The customer did not inform the company, RST nor NMP of the reduction in the property size until 2017. The customer states within the response that the land was a “portion of the car park”. The customer has not submitted any evidence to demonstrate the extent of the reduction in area, which would support his contention that the area was incorrectly measured in 2010.

6. Based on the evidence submitted, I am satisfied that the customer is not entitled to the further refund sought. The customer failed to notify the company/wholesalers that part of the property had been sold and apply for a rebate. The customer has also submitted insufficient evidence to show that NMP’s measurements were incorrect. I have not been provided with any substantive evidence to show that the company is under a duty, legal or otherwise, to provide the customer with a refund beyond the current charging year in which an application for a rebate is made. The company has shown that it has adequately communicated with the wholesaler in relation to this issue, provided the customer with appropriate explanations and has provided a refund in accordance with Ofwat guidance on “reducing your surface water drainage charges”.
7. The customer has also raised an issue with the customer service provided. It is clear from the communications submitted that the customer was unaware of the retailer and that confusion has been caused following the opening up of the market and the transfer of the sewerage system to DEF. NMP did not originally register this as a complaint as it does not have a contractual relationship with the customer. I note the customer’s comments in relation to the 2 stage procedure; however, I am unable to make any determination in relation to the customer service provided by NMP. I am satisfied that the company has adequately assisted the customer by communicating with NMP and passing information on to RST. To this extent, I find that the company provided its services to the standard to be reasonably expected by the average person.
8. Therefore, in light of all of the above, upon review of all the evidence provided by the parties at the time of adjudication, I find that the company has not failed to provide its services to the standard to be reasonably expected by the average person in relation to this issue.
9. Consequently, in the absence of any substantiated failures on the part of the company; I am unable to uphold the customer’s claims for redress.

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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 16 May 2018 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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D.Curnow

Demelza Curnow, BA Hons, LLM, Solicitor (non-practising)

Adjudicator

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