

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0735

Date of Decision: 30 April 2018

Complaint

The customer complains that the company did not consult or warn him prior to reduction of the water pressure so that he was not able to take action to ensure that the water pressure was sufficient to serve the upper floors of his hotel. He therefore had to turn customers away and to compensate them, and he seeks reimbursement from the company.

Defence

The company is a retailer and has no responsibility for the water pressure. It was not warned that the water pressure would be reduced by the wholesaler which was, in any event, within legal limits. It has pursued the customer's claim against the wholesaler but the wholesaler has refused to provide compensation on the grounds that the problem has been caused by the inadequate performance of the hotel's private pumps.

Findings

The company is only a retailer and is not responsible for the maintenance of water pressure. There is no evidence that the company knew in advance that the water pressure would be adjusted. It has acted in accordance with its responsibilities as an intermediary to pursue the customer's complaint against the wholesaler. The customer has not proved that the company has failed to supply its services to the standard that would reasonably be expected of it.

Outcome

The company does not need to take any further action.

The customer must reply by 30 May 2018 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0735

Date of Decision: 30 April 2018

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The customer is the general manager of the [] Hotel.
- He seeks redress of £9,036.76 from the company following an incident in October 2017 where, without notice, the water pressure in the area was reduced. This caused the hotel to lose water pressure and it was unable to supply enough water to reach the higher levels of its accommodation.
- The customer therefore had to issue refunds to the hotel guests who were affected.
- The customer acknowledges that the company (which is a retailer) did not fail in its duty to supply the minimum pressure of 1 bar because the supply was reduced from 5 bar to 2 bar by the wholesaler, but he argues that, had the company communicated with the customer and given appropriate forewarning, the hotel could have taken alternative steps to engage private booster pumps to ensure a consistent supply. If had this happened, the Hotel would not have suffered a financial loss.
- The company has submitted the customer's complaint to [] (the wholesaler) on behalf of the customer but the wholesaler's position remains unchanged and the company has not offered compensation.
- The customer further suggests that the wholesaler's allegation that the hotel had failed to maintain its water pumps is unreasonable. There was a significant unannounced drop in water pressure when the pumps had not previously been required in the preceding 40 years and had been disconnected some years previously because they presented a legionella risk.

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The company's response is that:

- The company has been responsible for delivering retail water services in the [] wholesale area since April 2017. It is independent and legally separated from [], which is the wholesaler.
- As a retailer, the company supplies meter reading and billing services for non-household customers, such as the customer in this case. It is also the first communication point for customers and acts as an intermediary between the customers and the wholesalers. It has no control over any physical assets owned by the wholesalers and therefore cannot control water pressures and flows to customers premises. In contrast, the wholesalers are responsible for all aspects of the physical water supply including water quality, water pressure and interruptions to water supplies either due to planned maintenance or emergencies such as burst water mains etc.
- The company received a telephone call from the customer on 23 November 2017 complaining about a loss of water pressure resulting in the Hotel losing water to some higher bedrooms and therefore having to refund their customer's payments. The company had not been given prior warning by the wholesaler that this would happen but nonetheless explained that this was an action by the wholesaler and that the company would raise a complaint on the customer's behalf, which was duly done. The customer was sent a form to make a claim against the wholesaler.
- The wholesaler responded, stating that active pressure management had been carried and, although the pressure had been reduced, it should not have been below minimum pressures. It was further suggested that the loss of water to the hotel was caused by the failure of its private pumps and as such any claim for loss of earnings should be made through its insurance company.
- On the customer further complaining that the occurrence was not within the scope of the insurance policy because it was a deliberate action on the part of the wholesaler, the company again approached the wholesaler. The wholesaler responded that it had no obligation to inform customers of pressure management work, and the minimum required pressure was maintained at all times.

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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.

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

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 company explains that it does not have responsibility for the maintenance of water pressure but is a retailer only. It details that it acts as an intermediary in respect of matters which are within the remit of the wholesaler and takes a primary role in respect of billing and metering. It further explains that the wholesaler was within its rights to turn down the water pressure, provided that this remained above a minimum pressure of 1 bar.
2. No evidence has been submitted by either party that the water pressure fell below 1 bar, and the customer has acknowledged in correspondence that he does not challenge the right of the wholesaler to turn down the water pressure. From his email dated 14 January 2018 onwards and in his application form, the customer has made clear that his complaint is about a lack of prior consultation.
3. Consistent with its position on its limited role in this complaint, the company issued the customer at the time of his complaint on 23 November 2017 with a claim form, which the customer completed. That form raised a claim in respect of street works undertaken by the wholesaler, which had affected the customer's business. The form was headed with the branding "[]" and appears to be a form prepared by the wholesaler to enable the customer to make a claim against the wholesaler. I find that it was therefore obvious to the customer at the time of

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completion of the form that the claim made was against the wholesaler and not against the company. The company also said that this was explained to the customer and the customer has not challenged this in his comments in reply to the defence. I find that the company therefore acted transparently in this regard.

4. This claim has nonetheless been made against the company and I have to consider whether there is a basis on which it can be said that the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person, bearing in mind its status as a retailer. I remind myself that adjudication is an evidence-based process and it is for the customer to prove this contention. It is therefore for him to submit evidence and arguments to establish the basis on which it might reasonably have been expected that the company should have warned its customers of an impending drop in water pressure caused by the actions of the wholesaler.
5. I find that the customer has not been able to discharge that burden. As it is not submitted by the customer that the company has acted contrary to statute, I find that the wholesaler has supplied water at the pressure which is within legal limits. Water is generally supplied and charged for by volume, not by reference to the water pressure and it has not been suggested that the company was in any way in breach of contract, nor is there evidence on which I could reach such a finding. It therefore follows that I find that nothing which has been done or not done by the company in relation to the reduction of the pressure has been shown to be unlawful.
6. As for the question of customer service, the company has submitted that it was unaware that the wholesaler would turn down the water pressure affecting the customer's hotel in advance of the alteration in water pressure. The customer has not indicated any basis upon which the company would or should have been entitled to request this information from the wholesaler or on which the wholesaler was obliged to consult the company before making such reduction. In respect of the failure to give advance warning of the reduction in pressure, therefore, I find that there is no evidence that the company failed to chase up information about the water pressure with the wholesaler or did not keep the customer updated, or any other matter which might constitute a failure to meet the service standards to be expected. I find that the company would not reasonably be expected to inform the customer of information that was not in its possession.
7. Although the intervention of the Consumer Council for Water meant that the company was at some stages prompted in respect of its intermediary responsibilities regarding the conduct of the

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customer's complaint, this was in due course completed before the application to WATRS, it has not led to any additional loss and in any event, the customer does not complain about the management of his complaint against the wholesaler.

8. It therefore follows that I am unable to conclude that the customer has shown that company failed to meet the standard to be reasonably expected of it and am not able to direct the redress that the customer claims.

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 30 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.



Claire Andrews, Barrister, FCI Arb

Adjudicator

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