

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0972

Date of Decision: 26 October 2018

Complaint

The customer's bills increased significantly after he had a meter fitted in 2016. The company advised that it would investigate. It also told the customer that he should cancel his direct debit and that he did not need to make payments towards his account for the time being. In February 2018, the customer discovered that the company had added negative marks to his credit file. The issue has caused stress and inconvenience and has had an adverse impact on the customer's credit rating. He would like the company (1) to remove the negative marks; (2) to waive the outstanding balance on his account; (3) to apologise for mistakes made with his billing; and (4) to pay £500.00 by way of compensation.

Defence

There is no evidence to suggest that the customer was ever told not to pay his bill. In any event, during a call on 7 March 2017, the customer was advised that if he had been told previously that he did not to be making payments then that instruction was given incorrectly. For goodwill reasons, the customer's charges have already been reduced by a total amount of £320.00. The company believes this to be a fair sum and it disputes the customer's claimed entitlement to compensation of £500.00 on top.

No offer of settlement has been made.

Findings

During a call on 26 May 2016, the company did tell the customer that he could stop making payments to his account (whilst the underlying issue was being investigated). It was inappropriate for the company subsequently to have caused late payment marks to be added to the customer's credit file. In that respect, the company failed to provide its services to the customer to the standard to be reasonably expected.

Outcome

The company needs to take the following further action:

I direct the company the company (1) to take immediate steps to have the adverse marks removed from the customer's credit file and (2) to pay the customer the sum of £75.00 in compensation.

The customer must reply by 23 November 2018 to accept or reject this decision.

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- has had an adverse impact on his credit rating. He was unable to obtain a credit card or access the best rates when he remortgaged.
- In view of all of this, he would like the company:
 - to remove the negative marks on his credit file; and
 - to waive the Remaining Balance altogether; and
 - to give an appropriate apology for making mistakes with his billing; and
 - to pay £500.00 by way of compensation.

The company's response is that:

- There is no evidence to suggest that the customer was ever told not to pay his bill. If given at all, this advice would surely have been mentioned in one of the calls made on 8 April 2016, 26 May 2016, 6 September 2016 or 7 March 2017. However:
 - there are no notes to suggest that payment was discussed during the call on 8 April 2016; and
 - on 26 May 2016, the only note relating to payment simply states "Stop PPlan". It is not indicated whether this was a request from the customer or the advice from the company's agent (as the customer has alleged); and
 - on 6 September 2016, again, the notes do not suggest that there was any advice given not to pay the bill; and
 - the customer's original case manager managed to retrieve and listen to the call that took place on 7 March 2017. This confirmed that the customer was advised (i.e. during this 7 March 2017 call) that if he had been told previously that he did not have to pay then that assurance was incorrect.
- It is not common practice for customers to be advised to stop paying altogether because, by virtue of their being in the property and using the services, payment will be due. The company always encourages customers to make some form of payment, normally a payment plan where the customer can just set it for a low monthly amount. Furthermore, its agents are trained in circumstances such as this (i.e. where a bill is being disputed) to offer a payment plan to a customer in order to stop debt recovery taking place.
- It sent a bill in February 2017, which showed overdue charges as being payable immediately. This prompted the customer's call in March 2017. The company continued to send bills after this, detailing the overdue charges. The bills issued between February 2017 and April 2018 all stated that the overdue amount was payable immediately and that the new charges were accruing. The customer did not, however, make contact to arrange payment.

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- The company accepts that it could have been more proactive in updating the customer but it was also the customer's responsibility to ensure that he paid for the services that he was using.
- The company reported late payments for the customer:
 - every month between December 2016 and January 2018; and
 - again, for May and June 2018.
- Although the customer is claiming that he could not get a credit card or access the best rates when he remortgaged, no evidence to support this claim has been provided.
- Between February 2017 and March 2018 (i.e. when the customer discovered that his credit score had been impacted), he only called the company once. That one call was on 7 March 2017. This was the occasion when he was advised that if he had been told previously not to pay anything then that instruction was wrong. From that point onwards, therefore, as far as the company is concerned, it has been the customer's decision to withhold payment. It was this decision on the customer's part that led to the negative marks being entered on his credit file.
- The company agrees to remove the late payment marks from the customer's credit file but only on condition that the Remaining Balance is first cleared and paid off in full.
- The following credits have already been added to the customer's account:
 - after comparing the usage on the customer's original meter and the meter fitted in September 2016, an adjustment credit of £170.41 was applied ("the £170.41 Adjustment"); and
 - as there were delays in this adjustment being calculated and credited, a goodwill payment of £170.00 was made; and
 - further goodwill payments were added to the customer's account of:
 - £50.00 on 6 September 2016 (for inconvenience); and
 - £70.00 on 27 March 2018; and
 - another credit of £30.00 was added because the company had not reviewed the customer's case within the timescale promised.
- To date, therefore, excluding the £170.41 Adjustment, the customer's charges have been reduced by a total amount of £320.00 ("the £320 Credits"). The company believes this to be a fair sum and as such, it disputes the customer's request for compensation of £500.00 on top.
- After the customer set up a payment plan recently and made two £5.00 payments to reduce it down, the Remaining Balance stands currently at £127.50.

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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 have carefully reviewed:
 - a. the detailed 'chain of events', which is set out by the company on pages 1 to 3 of its defence; and
 - b. all of the documents annexed to the defence. ^[1]_[SEP]
2. I have also had the benefit of reading the customer's comments of 8 October 2018 ("Comments"), by which he gives his responses to the company's defence.
3. There is a major dispute over whether the customer was ever told that he did not need to be making payments towards his account. It seems to me that this is a pivotal question. The company's position is that there is no evidence to suggest that the customer was ever told. It does however refer to its notes of a call on 26 May 2016, which show the following entry: "... *cust wanted raised as complaint. Stop PPlan ...*" The company argues that it is not clear whether this "Stop PPlan" note reflects the fact, during the call:
 - a. that the company's agent gave an authorisation to the customer that payments could be

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stopped; or

- b. that, merely, the customer had asked whether he could cancel his direct debit arrangements.

4. I have taken account of the customer's Comments:

"... I was told not to pay the bills and to cancel my direct debit as the charges were so high and so far off what [the company] would expect for a 1 bed flat with single occupancy (five times the expected level, £150 a month, rather than £30) that they advised it was not acceptable to expect me to keep paying while the issue was investigated. The fact that they can only supply high level summary notes of the call is not conclusive or sufficient ..."

5. I accept the customer's submission on this aspect. This explanation – as to why the company might tell its customer to stop paying in these circumstances - seems credible to me.

6. On the balance of probability, therefore – and having regard to the implications of the "Stop PPlan" note – I find that, during the call on 26 May 2016, the company did tell the customer that he could stop making payments to his account (whilst the underlying issue was being investigated).

7. I do note what the company says about the 7 March 2017 conversation, i.e. that, during this call, the customer was advised that if he had been told previously that he did not to be making payments then he had been given that instruction incorrectly. However, I do not attach much weight to this point. On my findings, the 7 March 2017 call came nearly ten months after the customer was first told that he could stop paying. As I see it, it would not have been reasonable for the company, at that stage, to go back on its agreement. Moreover, at that point in time, in 2017, it appears that the underlying issue (i.e. as to why the customer's bills were so high) still remained unresolved.

8. In light of my finding that the customer was told in 2016 that he could stop paying, it seems to me that it was inappropriate for the company subsequently to cause late payment marks to be added to the customer's credit file. I find that – in this respect - the company failed to provide its services to the customer to the standard to be reasonably expected. I am satisfied that, in the circumstances:

- a. the company should take steps to have the adverse marks removed from the customer's credit file; and

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- b. such steps should be taken immediately and without first waiting for the Remaining Balance to be cleared.
9. I note the £320 Credits already applied to the customer's account and I follow the various reasons why these have been granted. Having made the £320 Credits and the £170.41 Adjustment – and allowing for the fact that the customer has had the benefit of a long payment holiday - I am not persuaded that the company should additionally be required in this case:
- a. to write off or waive the Remaining Balance of £127.50; or
- b. to give an apology for making mistakes with the customer's billing.
10. However, my finding above was that the reporting of late payments to the credit reference agencies amounted to a failure – by the company – in the provision of its services to the company. No part of the £320 Credits reflects that specific failure. Therefore, I shall award the customer £75.00 by way of compensation on this aspect of his claim.

Outcome

The company needs to take the following further action:

I direct the company the company (1) to take immediate steps to have the adverse marks removed from the customer's credit file and (2) to pay the customer the sum of £75.00 in compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 23 November 2018 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.

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- 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.



Nik Carle, LLB (Hons), Solicitor, DipArb, FCIArb

Adjudicator

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