

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1760

Date of Decision: 15 January 2020

Complaint

At the beginning of May 2018, the company advised the customer that she may have a water leak. The leak was investigated and repaired but the customer was sent a bill for approximately £17,000.00 for the lost water. The customer's application for a leakage allowance was successful and the Wholesaler reduced the outstanding charges to £6,000.00. However, the Wholesaler has refused to reduce the bill further and the company deems the outstanding balance correct and payable, even though the charges accrued because the company failed to efficiently notify her that she had a leak and the Wholesaler was delayed in locating it. The customer wants the Wholesaler to grant an extension of the leakage allowance to cover the remaining balance and wants the company to pay back the money she has already paid towards the debt.

Defence

The company has no liability for the water lost through the customer's private leak. The company fulfilled its obligations by reading the customer's meter, advising the customer of the higher than usual read, and providing assistance to locate the leak. The company submitted a leak application to the Wholesaler on behalf of the customer and challenged the Wholesaler's decision several times, however, the Wholesaler will not authorise a further allowance. The company has exhausted the grounds on which it can challenge the Wholesaler and, as the remedy sought by the customer is outside its remit, the company cannot reduce the charges on the customer's account.

The company has not made an offer of settlement.

Findings

I find that the company is the customer's retail provider and is responsible for billing, accounting and customer services. RST Water ("the Wholesaler") is the customer's wholesaler and, as such, is responsible for the maintenance and repair of the water and sewerage assets and, in the event of leaks, the calculation and authorisation of leakage allowances. As an adjudicator operating under the Water Redress Scheme, I can only make findings related to those things for which the company, as a party to the case, has responsibility, and not those things for which the Wholesaler has responsibility. In order to reduce the disputed bill, the company would need to apply a further

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leakage allowance to the customer's account. However, as the Wholesaler has not authorised a further allowance, I cannot direct the company to reduce the disputed bill. I accept that the company has effectively operated as an intermediary between the Wholesaler and the customer during this dispute and that the company has exhausted the grounds on which to refer the complaint back to the Wholesaler. Consequently, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer and, therefore, the customer's claim cannot succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 12 February 2020 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1760

Date of Decision: 15 January 2020

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- In early May 2018, following a high meter reading taken on 17 April 2018, the company advised her that she may have a leak on her supply.
- There was no sign of a leak inside or outside her property so, on 8 May 2018, she contacted the Wholesaler's leak advice line and asked for help with locating the source of the leak and an appointment was made for an engineer to attend the property.
- On 29 May 2018, some three to four weeks after her initial contact with the company, the Wholesaler sent a representative to the property but they were not equipped or prepared to find the source of the leak. The Wholesaler then arranged for an engineer to attend urgently and the leak was found on 31 May 2018.
- The leaseholder of the property asked a private contractor to repair the leak, however, the leak was not situated on the leaseholder's premises and permission to excavate the forecourt had to be obtained from the owners. The leak was repaired on 5 June 2018.
- She received a bill for approximately £17,000.00 and applied for a leakage allowance. The application was successful, however, under the terms of the Wholesaler's leakage allowance policy, although the charges were reduced, £6,000.00 remained outstanding. The outstanding charges are unreasonable given the Wholesaler's delay in finding the source of the leak.
- Furthermore, when she contacted the Wholesaler's leak advice line she assumed that the advice was correct and that a delay of up to a month for the detection of a leak was normal. A leak allowance was mentioned and she was reassured that her charges would be reduced. However, she was not informed that her lost water bill was already accruing and that any delay in detection would significantly increase the bill.

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- After she challenged the amount of leak allowance provided, the company advised her that she could have employed a private contractor to locate the leak and carry out the repair more quickly than the Wholesaler was able to. However, she was not given this advice at the time the leak detection appointment was made.
- Furthermore, the leak detection process is inadequate. The Wholesaler reads meters and provides readings to the company. The company identifies possible leaks from the bills generated by the meter reads and requests the Wholesaler to investigate where necessary. The Wholesaler then contacts the customer to arrange an appointment to detect the leak. This process means that the standard timescale for leak detection is approximately one month, during which time the customer is accruing charges for lost water.
- The Wholesaler's leak allowance policy allows a maximum allowance of 180 days following the last normal meter reading, but this is unreasonable. If a high meter reading is taken more than six months after a normal reading, the maximum leak allowance period will have been exceeded and the customer will accrue charges for lost water before they know they have a leak. Any further delays in identifying the source of the leak exposes the customer to additional lost water charges.
- Before the high meter read of 17 April 2018, the meter was last read on 13 October 2017. The 180 day leak allowance period granted by the Wholesaler therefore expired on 11 April 2018, six days before the high meter reading was taken. It then took 55 days for the leak to be discovered and fixed, resulting in her being charged for 55 days of lost water. It is not reasonable that she should be charged for 55 days of leaking water when 49 of those days were the responsibility of the Wholesaler.
- Furthermore, the leakage allowance process is far from transparent and it took several requests to the Wholesaler through the company to establish how the allowance was calculated.
- CCWater asked the company to send a request to the Wholesaler asking it to take the above into consideration and grant an extension of the leakage allowance. However, the Wholesaler refused to grant a further allowance and the company insists the disputed charges are correct and payable.
- She wants the company to reduce the disputed bill to reflect the time it took to find and repair the leak. She also wants the company to refund the money she has already paid under the terms of the debt recovery agreement.

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The company's response is that:

- Prior to 1 April 2017 there was no division between household and non-household (“NHH”) customers and all, as a general rule, were dealt with solely by the Water and Sewerage Undertaker(s) for that area. In this case, the customer's water undertaker was RST Water who was responsible for providing the customer with water services and recovering the costs of doing so directly from the customer.
- In April 2017 this changed and the market was split, separating the industry into ‘wholesalers’ who supply clean water and take wastewater away, and ‘retailers’ from whom NHH customers buy these services. The wholesaler bills the retailer in bulk for the water used by its customers, and the retailer then passes these costs on to its customers.
- If a water leak is detected on a property's supply pipe, then it is the responsibility of the property owner to undertake the necessary leak detection and repair. Until a leak is fixed, the property will be billed for any water lost via the leak. However, a customer may be eligible for a reduction on their bill in accordance with the wholesaler's leak allowance policy.
- Wholesalers are responsible for making decisions on leak allowances. Leak allowance policies differ from wholesaler to wholesaler and retailers have no influence over how, or even if, a wholesaler offers any sort of leak allowance.
- On 19 April 2018, the customer's meter was read and it was higher than usual. A high consumption letter was issued advising the customer that there may be a leak on their supply.
- On 3 May 2018, the customer called and was advised to complete a stop tap test. The customer completed the test, the results of which indicated that there was a leak, and the customer was advised that the Wholesaler could carry out a free leak detection survey. On 8 May 2018, the customer booked an appointment with the Wholesaler for 29 May 2018.
- On 29 May 2018, the customer called to advise that the Wholesaler's technician was unable to locate the leak and had advised her to contact a private contractor to continue investigations. In order to assist the customer, it asked the Wholesaler to re-attend to try to locate the leak.
- On 11 June 2018, the customer advised that the leak had been repaired on 5 June 2018. It subsequently supplied the customer with the link to apply for a leak allowance. The leak allowance application was received on 12 June 2018 and submitted to the Wholesaler on 19 June 2018.
- On 20 July 2018, the Wholesaler advised that it had considered the leak allowance application and would grant an allowance for 3267m³ of water. The allowance was applied to the customer's bill on 27 July 2018.

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- On 8 August 2018, the customer was advised of the value of the allowance and the outstanding balance. The customer asked for a complaint to be submitted to the Wholesaler requesting an increase of the allowance. This complaint was submitted on 8 August 2018.
- Between 8 August 2018 and 26 November 2018, the customer's case was considered by the Wholesaler's senior management team. On 26 November 2018, the Wholesaler advised that the allowance had been calculated correctly, in accordance with their policy, and would not be increased.
- The complaints team supervisor called the Wholesaler on 21 December 2019 to discuss the allowance further. The Wholesaler confirmed that no increase would be granted and the customer was informed of this decision.
- On 15 April 2019, it received a written complaint from the customer's leaseholder on her behalf. A substantive response was sent, including information regarding how the allowance had been calculated.
- On 26 April 2019, it received a request for clarification on how the leak allowance was calculated; in response, it sent the leaseholder a copy of the Wholesaler's feedback to the leak allowance application. The Wholesaler's feedback was somewhat confusing and the customer's leaseholder asked for further clarification. It sent a letter, and a copy of the Wholesaler's leakage allowance policy, which better explained the details of the allowance and the breakdown of the calculation.
- On 30 May 2019, the customer requested that the allowance was increased based on the amount of time the leak was on-going. The customer suggested that the mitigating circumstances for the increase would be that the 180 day limit for allowances between actual meter readings had been exceeded before the meter reading showed the high consumption. Therefore, the customer believed that their allowance should be increased as the meter reading delay and the time it took to detect the leak contributed to the duration of the leak.
- On 5 June 2019, it advised the customer that both the company and the Wholesaler had fulfilled their obligations regarding reading the meters and granting an allowance. It explained that it is only obliged to undertake meter readings every two years, although it goes above and beyond this obligation by undertaking meter readings every six months whenever possible. The customer was advised that the complaints process had been exhausted.
- On 30 July 2019, CCWater asked it to request the Wholesaler to reconsider its decision. The request was considered by the Wholesaler's senior management but the outcome did not change; on 12 September 2019 the Wholesaler rejected the appeal.
- It appreciates that the customer is unhappy that the outstanding balance of £5,968.71 remains payable. However, it has not contributed to the high balance in any way and has effectively

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acted as an intermediary between the customer and the Wholesaler at all times. It is not responsible for authorising leakage allowances; its only power is to ask the Wholesaler to increase the allowance, and it has done this on a number of occasions.

- It understands the frustration caused to the customer by having to relay their complaint to the Wholesaler via the company, but it cannot change this process as it was created by MOSL (Market Operator Services Ltd.) upon the creation of the NHH market in April 2017. It has no choice but to follow this process when communicating with wholesalers on a customer's behalf.
- It apologises for the confusion caused when the allowance calculation was presented to the customer in the first instance. The information provided by the Wholesaler was correct but not easy to understand and it should have provided the information in a clearer way to the customer. Following a review of its internal processes, the customer was presented with a plain English explanation of how the allowance had been calculated. It intends to take this approach in the future when dealing with similar complaints.
- It appreciates that there was a delay between the customer becoming aware of the leak and it being located. However, the customer did not have to use the Wholesaler's complimentary leak detection service and could have engaged a private contractor to detect the leak. It does not have recordings of the calls in which the customer was advised on how to complete the stop-tap test, so it is unable to confirm whether the customer was told she could engage a private contractor, however, if the customer wanted further information she could have requested it.
- The company denies liability and, as the remedy sought by the customer is outside its remit, the company cannot reduce the charges on the customer's account.

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.

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I have carefully considered all of the evidence provided. Please note that 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. Having read the evidence provided by both parties, I find that the company is the customer's retail provider and is responsible for billing, accounting and customer services. RST Water is the customer's wholesaler and, as such, is responsible for the maintenance and repair of the water and sewerage assets and, in the event of leaks, the calculation and authorisation of leakage allowances. Therefore, the Wholesaler, not the company, was responsible for assessing the leakage allowance application made by the customer.
2. In order to make a decision in this matter I must clearly distinguish between actions taken by the Wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which a wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between a wholesaler and a customer.
3. The customer believes the leak allowance granted by the Wholesaler is inadequate and wants the company to reduce the disputed bill further, on the basis that the high charges were accrued due to a leak on her supply that she was not notified about until early May 2018. A further delay followed, and the charges accrued further, because the Wholesaler did not locate the leak until 31 May 2018.
4. In order to reduce the bill, the company would need to apply a further leakage allowance to the customer's account. However, as the company is not responsible for calculating and authorising leakage allowances, and the Wholesaler has refused to grant a further allowance, it therefore follows that I cannot direct the company to reduce the customer's bill. I appreciate that this decision is likely to frustrate the customer, but I have no jurisdiction to make findings with regard to the actions or decisions of the Wholesaler as the Wholesaler is not party to this case.

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5. However, as stated above, I am able to assess whether the company has effectively operated as an intermediary between the Wholesaler and the customer during this dispute. Having reviewed the evidence presented by the parties, including the documentation provided by CCWater, I accept that the company has effectively operated as an intermediary. I also find that, on balance, the company has exhausted the grounds on which to refer the complaint back to the Wholesaler for reconsideration.
6. The customer complains that the company did not read her meter between 13 October 2017 and 17 April 2018 and that, due to the operation of the Wholesaler's leak allowance policy, she was being charged for lost water before she knew she had a leak. I accept the company's assertion that Ofwat's guidelines only obligate it to read meters every two years. It therefore follows that I do not find that the company breached any regulatory or policy requirements and find no failing on the company's behalf in this regard.
7. The customer believes that the leak detection process takes too long, stating that after a meter is read, the company identifies possible leaks from the bills generated and requests the Wholesaler to investigate. The Wholesaler then contacts the customer to arrange an appointment to detect the leak. This process means that the standard timescale for leak detection is around a month. The customer asserts that it is unacceptable for a company to be satisfied with such a long delay when a customer's charges for lost water are mounting. Having read the evidence, I do not find that there was an unacceptably long delay between the meter reading and the customer being contacted but, even if I had, I am unable to adjudicate on the fairness of the company's practices due to rule 3.5 of the Water Redress Scheme Rules which states that the Scheme cannot be used to adjudicate disputes relating to the fairness of commercial practices.
8. The customer states that her charges escalated during the period between the company informing her that she may have a leak and the Wholesaler attending her premises and finding the leak. I accept that the company was not responsible for the delay between the customer requesting a leak detection test from the Wholesaler and the Wholesaler's attendance at the customer's property. The evidence demonstrates that the company assisted the customer in obtaining the Wholesaler's services but does not show that the company provided incorrect advice to the customer regarding her right to instruct a private contractor.
9. In view of the above, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer. I am aware that this is not the

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outcome the customer hoped for, but it therefore follows that the customer's claim cannot succeed.

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 12 February 2020 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.

KS Wilks

Katharine Wilks

Adjudicator

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