

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1769

Date of Decision: 12 February 2020

Complaint

The customer's application states that, in accordance with the Non-Owner Occupier Regulations, she was liable for the outstanding water service charges of her tenants. She therefore set up a payment plan with the company in order to pay-off the outstanding charges. However, the customer asserts that she was not aware this would affect her credit file. The customer complained to the company about this issue but it explained that it correctly applied the Non-Owner Occupier Regulations and properly followed its policies/processes. The company confirmed that the negative markers must remain in place until the balance has been cleared in full. The customer is disappointed with the company's position and is now claiming for the company to remove the markers from her credit file.

Defence

The company states that it is entitled to charge the customer for services at the Property under Section 144C of the Water Industry Act 1991 and in line with the Non-Owner Occupier Regulations. The company has explained that because the balance of the account is overdue, it is obliged to report this to the credit agencies in accordance with the Steering Committee on Reciprocity rules. It is unable to falsify this information for the customer. The company understands that the customer is disappointed with this situation. However, the company must follow the applicable regulations and its set policies/processes. The company states that, in light of all the above, it does not accept liability for the customer's claim for redress.

Findings

Under the circumstances, I am unable to conclude that the company has failed to provide its services to the standard to be reasonably expected by the average person. Consequently, in the absence of any established failures on the part of the company, customer's claim for redress is unable to succeed.

Outcome

The company does not need to take any further action.

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 remains disappointed with the company's position and is now seeking for the company to remove the markers on her credit file.

The company's response is that:

- It is entitled to charge the customer for services at the Property under Section 144C of the Water Industry Act 1991 and in line with the Non-Owner Occupier Regulations.
- The company confirms that CCWater ultimately concluded the company had acted appropriately on this particular issue and could not challenge what had happened.
- The company has explained that because the balance of the account is overdue, it is obliged to report this to the credit agencies in accordance with the Steering Committee on Reciprocity rules. It is unable to falsify this information for the customer.
- The company understands that the customer is disappointed with this situation. However, the company must follow the applicable regulations and its set policies/processes.
- The company states that, in light of all the above, it does not accept liability for the customer's claim for redress.

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. 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?

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.

1. The customer's complaint, as detailed in her WATRS application, is that she is displeased with the company for reporting a marker on her credit file. The customer has complained to the company about this issue and, whilst it appreciated the customer's discontent, it confirmed that it correctly carried out the applicable regulations and properly followed its set policies/processes. The customer referred her complaint to CCWater who, after completing its investigation, ultimately concluded that it could not challenge the company further on this particular issue. The customer is not satisfied with this outcome and is now claiming for the company to remove the markers from her credit file.
2. I draw attention to the fact that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it. I must also make clear that I am only able to address the issues as presented in the customer's WATRS application. Any issues not specifically raised in the customer's WATRS application (such as issues that may have been previously resolved during the course of the CCWater process) will not be addressed in my findings.
3. I note that the customer has submitted comments with additional evidence and submissions. It should be noted that any new evidence/claims/submissions introduced at the comments stage must be fully disregarded by the adjudicator. I must proceed accordingly.
4. At this stage, I believe that it may be important to highlight that my powers as a WATRS adjudicator are limited (as detailed in the scheme rules). Specifically, I should make it clear that it is entirely beyond my remit to challenge and/or amend water industry regulations or a water provider's set policies/processes. I am only able to examine whether the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person.
5. I am mindful that water companies have been permitted by the Information Commissioner's Office and OFWAT to share data with Credit Reference Agencies. More specifically, I note that the company's set policies (as detailed in its codes of practice) make it clear that it will register outstanding charges on customer accounts with Credit Reference Agencies. For the avoidance of doubt, I do not find that the company is obliged (contractually or otherwise) to provide its customers with personalised financial advice (such as how outstanding charges might affect

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.

their credit ratings). Nor am I satisfied that the company's terms of service oblige it to suspend its credit reporting activity if a customer agrees to set up a payment plan. Accordingly, I find that I must concur with the conclusions reached by CCWater. Under the circumstances, I am unable to conclude that the company's actions of carrying out its set policies (in accordance with industry regulations) amounts to a failure to provide its services to the standard to be reasonably expected by the average person.

6. In the interests of completeness, I draw attention to the fact that by virtue of section 142 of the Water Industry Act 1991, the company is entitled to set its own scheme of charges and charge its customers in accordance with that scheme of charges.
7. In light of the available information I am not satisfied that there are any failures on the part of the company at this time. Therefore, in the absence of any failures on the part of the company, the customer's claim for redress is unable to succeed. This concludes the WATRS stage of the customer's complaint.
8. I remind the parties that the customer is not obliged to accept this decision and remains free to refer her complaint to other forums as may be available to her.

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 March 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.

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.



E. Higashi (LLB (Hons), PGDip (LPC), MCIArb)

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 | applications@watrs.org