

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/2062

Date of Decision: 8th October 2020

Complaint

The customer states that the company has failed to obtain a leakage allowance in relation to an increased bill at his non-working farms. He states that the bill he received in March 2018 was about 30 times that of his usual bill and that the company has not dealt fairly with his complaint. He states that delays in the company's actions have caused him this loss.

He seeks compensation of £9,500 for the excess charges and stress and inconvenience.

Defence

The customer seeks a leakage allowance which can only be awarded by the wholesaler. As the customer is on a business account the company is acting as a retailer and has acted according to all its duties and obligations. Where it has not replied in adequate time it has awarded good will payments totaling £140.

It defends this claim and has made no offer of settlement.

Findings

The company acted in accordance with its legal obligations in referring the matters raised to the wholesaler. The evidence presented does not indicate that the company is at fault in this case.

Outcome

The company does not need to take any further action.

The customer must reply by 5th November 2020 to accept or reject this decision.

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Date of Decision: 8th October 2020

Party Details

Customer: Customer

Company: XWater, a water and sewerage company.

Case Outline

The customer's complaint is that:

- He resides at the following address: REMOVED ("the Property") which is a non-working farm but for which he has a business account.
- He should be eligible for a leak allowance from XWater
- He claims that he only realised that there was a possible leak on his land in March 2018 when he received a bill for £7,403.04 from the company.
- He claims that it would be impossible for him and his wife, who are pensioners, to use this amount of water.
- He states that this was taken from his account with no warning and that the company did not investigate the sudden increase.
- He states that he waited until June 2018 for the company to finally locate the meter.
- He explains that he had to instruct his insurers to fix the leak, and that this was a complicated matter.
- He states that during this work the meter was broken and that there was a further delay whilst the meter was replaced by the company.
- He states that the company has informed him that the wholesaler has refused the leakage allowance as the repair was not done in time (28 days) however he finds that this is unfair in the circumstances because the delay was not his fault.
- He queries the manner in which the readings were taken by the company resulting in the high reading in November 2016.

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- He claims that the company did not take any actual readings for 5 years.
- He states that the Property is a non-working farm and that he is retired.
- He states that he was advised to change his account to a domestic account but that this process seemed overcomplicated.
- He seeks a direction that the company pays him an amount of £9,500 for the water cost and compensation.

The company's response is that:

- It received a complaint from the customer regarding a high bill in April 2018.
- It states that it had issued a high consumption letter prior to the March 2018 bill.
- It states that the delay with arranging an engineer occurred due to the wholesaler not being able to contact the customer
- It states that an engineer located the meter on the 7th June 2018 and it was the correct meter that the company had read for the high reading.
- The correct meter was number: 10050066. This was confirmed by the engineer and this was the meter that was charged.
- The engineer stated that the customer was present at the locating of the meter and that it was apparent that there was a leak as the meter was spinning quite fast.
- The company states that it sent out a Burst Allowance Claim form for the customer to fill in as soon as the leak was repaired.
- The company states that it received no further contact from the company until it called him in December 2018.
- The company states that it was contacted on the 12th February 2019 by the customer informing it that the contractor had damaged the meter and it would have to be replaced before the reading could be taken and the application form for a leakage allowance completed.
- This request was passed to the wholesaler and the meter replaced on the 25th March 2019.
- The company states that the application was declined by the wholesaler due to the time taken to repair the leak.
- The company states that it has fulfilled its obligations by referring the application to the wholesaler.
- It states it has made goodwill payments of £120 and £20 for its own service failings. It states that the current bill of £7,673.24 is still outstanding and payable.

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In his comments in reply:

- The customer has emphasised the complexity of fixing the leak.
- He also denies that any submeter readings were sent to the wholesaler.

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 find it important to remind the parties that adjudication is an evidence based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
2. In order to clarify any potential confusion, I must also remind the parties that the company and XWater ("XWATER") are separate and distinct organisations. Following the rules of the WATRS scheme I cannot make any findings on third-party actions in my decision and must limit my considerations to matters between the customer and the company.

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3. For clarity I shall examine the following. In April 2017 the water market opened up to retailers. All non-domestic customers were moved to a wholesaler/retailer split at that time. It must be noted that under the new arrangements that started in April 2017 a non-domestic customer only has a relationship with the retailer. The customer cannot bring a claim against the wholesaler directly, but only against the retailer. In this case I have noted that the customer was advised that, as the farm was non-working, he may be eligible to apply to have his account moved to a domestic account (Letter dated 7th June 2018 from the company to the customer refers). I understand from the customer's submissions that he decided not to go ahead with this application thinking it too time consuming. Therefore, the customer remains on a business account and subject to the situation outlined above.
4. In order for this case to be successful the customer would have to show that the company had not acted in accordance with its obligations and legal duties. The actions of XWATER are not subject to my adjudication and I cannot make any finding against XWATER neither shall I be critical of any decisions made by XWATER in this application as XWATER is not a party to this matter. Where I refer to XWATER it is only in order to fully analyse the issues in the application.
5. The customer has stated that the first time he was aware of the high meter reading at the Property was in March 2018 when he received a bill for £7403.04. He states that he was not made aware of any change in the levels of his water usage. The company has stated that it did investigate the high reading that it obtained in November 2017 and that it did send a high consumption letter to the customer prior to the bill in March 2018. I do accept that the company has explained that it looked into the high reading but I acknowledge that the customer was not aware of this. The customer is clearly stating that he only became aware of the high reading in March 2018 and I accept that this is true, whether by the receipt of the bill or the letter from the company. As the company has shown that it did look into the high meter reading I do not find any fault in its part in this regard.
6. The customer has stated that he believed that the company had not read the meter in five years but had estimated all readings going back to 2015. The company has produced evidence in the form of meter readings that show that it did carry out actual readings on the meter number 10050066 at the relevant time in November 2017. I find that the evidence presented indicates that this was the situation and that the meter reading taken in November 2017 was an actual reading and not an estimate.

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7. The customer states that the company took 3 months to arrange a visit to the Property to locate the meter that had registered the high reading. The company states that this was done through the third party, XWATER, as the wholesaler. It states that XWATER was contacted and that it could not make contact with the customer which delayed the visit of the engineer. The company states that a further visit was arranged and carried out in June 2018 when the meter 10050066 was located with the customer present. The customer has stated that he did not miss any calls from XWATER and was not aware that XWATER had tried to contact him. From his perspective he was waiting for the site visit to be carried out.
8. In relation to this delay, I do not find that the company can be shown to have been at fault as it passed the request on to XWATER and liaised between the customer and XWATER to arrange a visit to locate the meter. This was the only responsibility of the company in this regard.
9. The customer has stated that he had to contact his insurer and that this led to a lengthy and complicated process, spanning a number of months, to locate and fix the leak. This was followed by a further delay while the meter was exchanged and final readings taken before the leakage claim application was made.
10. I have to take into account that this adjudication can only find fault with the company for the things which fall within its responsibility. The company cannot be responsible for the actions of the insurers or any other matter outside its own duties.
11. I realise that the customer is interested in explaining the difficulties he faced in having the leak fixed. Clearly it was a problematic and stressful process. I note that the Consumer Council for Water ("CCW") explored this area in some detail with the customer and I have read all the correspondence in relation to this aspect of case. I have paid particular attention to page 31 of the CCW papers where the insurers' timeline is included. I note here that while this may have been something that the third party wholesaler, XWATER, might have taken into account there is nothing that the company has done or could have assisted with in relation to the delays or work that had to be carried out on the customer's land. The responsibility of the company, as the retailer, is to forward the application for leakage allowance to the wholesaler. As long as this is carried out within a reasonable time from the point at which it receives the appropriate paperwork from the customer the duty of the company is satisfied. I cannot see that there is

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anything arising from the closer investigation into the actions of the insurers that assists the customer in his case against the company in this matter.

12. The customer has stated that he asked for the meter to be replaced after it had been damaged by the third-party contractors who were fixing the pipes. He claims that the company took from October 2018 to April 2019 to replace the meter. He explains that he could not get a final reading for the application form for the leakage allowance until this meter had been replaced. In his reply the customer states that the new water meter was requested on 12th December 2018. The company states that it was informed about this on 12th February 2019 and that the request was passed to the wholesaler who replaced the meter on 19th March 2019. In any case, I note that the company did not have the responsibility for replacing the meter. I take into account that this aspect of the case is not crucial to the most important matter of the wholesaler refusing the leakage allowance due to the fix of the leak taking longer than 28 days. In other words, whichever date the company had been made aware of the need for a new meter, this was not brought about by a fault in their part but by a third-party contractor and the delay at this point did not mean that the wholesaler refused the application, but rather the earlier delay in the fixing of the leak caused the refusal.
13. For clarity, the wholesaler's policy requires the customer to have fixed the leak within a 28 day period. The customer, as a business customer, does not have a direct legal relationship with the wholesaler (as explained above). The position of the company is as a retailer which includes a duty to liaise between the customer and the wholesaler. I consider it unfortunate that in this case the customer, who is elderly and retired, has been charged a very high bill for a leak on his non-working farm. Nevertheless, legally I am not persuaded that the company is at fault from my close examination of all the evidence submitted by the parties and by the CCW. I have also considered the issue of whether or not the customer was unaware that he might be transferred to a residential account but the letter from the company in June 2018 is clear in its advice to the customer on this point. I cannot find that the company is at fault in that regard either.
14. The CCW papers show that the wholesaler stated to the company that the customer had submitted sub meter readings that showed that the customer must have been aware of the high volumes of water being used in 2017. The customer has denied any knowledge of this and disputes the existence of any sub meters. The company itself has not been involved directly in this part of the dispute but has passed on these comments from the wholesaler. In this respect there is no fault on the part of the company.

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15. Clearly the situation has been distressing for the customer and his wife. I accept that this application to WATRS was sincere and I appreciate that it has cost the customer a lot in time and effort. However, I do not find that the company, in this case, has been shown to have been at fault based on the evidence before me. I feel that it is important to add that even had I found a fault on the part of the company this scheme can only direct that the company accurately represents the customer's case to the wholesaler, it cannot direct that the wholesaler's decision be altered.

16. It follows that this application is not successful.

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 5th November 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.



J J Higgins, Barrister, ACI Arb.

Adjudicator

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