

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/2072

Date of Decision: 1 October 2020

Complaint

The customer is seeking an abatement of Surface Water Drainage (SWD) charges dating back to 2015/2016 when the property was built. (removed) ((REMOVED)), the wholesaler has agreed to amend the 2019-2020 charges by downgrading the property from Band 11 to Band 10. However, the customer requests that the company provide a refund of the difference between Band 11 and Band 10 backdated to 2015 when the charge was first introduced.

Response

XWater has raised the customer's request to the wholesaler on a number of occasions. However, the wholesaler has confirmed that as the customer had not queried this charge prior to December 2019, there will be no further credits being applied to the account. This is in line with the wholesaler's policy and what XWater would expect. As the retailer, it has fulfilled its obligations to raise the matter with (REMOVED).

Findings

The adjudicator can only consider claims made against the company, so no findings can be made in relation to (REMOVED) or other service providers. The evidence shows that (REMOVED), and not the company, is responsible for deciding the SWD charges for the property and for considering any requests for a rebate. The company's duty to the customer is to contact the wholesaler and raise any queries on behalf of the customer. The evidence shows that the company contacted the wholesaler on a number of occasions. The evidence also shows that the wholesaler has confirmed that no further refunds will be given. The company has fulfilled its obligation to the customer, for the purposes of this adjudication.

Outcome

The company does not need to take any further action.

The customer must reply by 21 October 2020 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 1 October 2020

Party Details

Customer: Customer

Customer's Representative:

Company: XWater, a water and sewerage company.

Case Outline

The customer's complaint is that:

- He is seeking an abatement of Surface Water and Highway Drainage charges (SWHD) dating back to 2015/2016 when the property was built, prior to this the site was an industrial yard.
- (removed) ((REMOVED)), the wholesaler has agreed to amend the 2019-2020 charges by downgrading the property's SWHD charges from Band 11 to Band 10.
- He is seeking a full refund/abatement and asserts that the company should apply the Band 10 charge back to the date the property was built. He contends that both the wholesaler and the retailer's decision to limit the adjustment to this financial year is unfair and unreasonable.
- The customer requests that the company provide a refund of the difference between Band 11 and Band 10 SWHD charges backdated to 2015 when the charge was first introduced.

The company's response is that:

- It was contacted by Customer on 4 December 2019 querying the surface water drainage charges. It responded and requested a completed application form and a detailed map.
- Customer sent in the application form along with a map on 17 December 2019. It raised a request to the wholesaler for a surveyor to attend the property and informed the customer of the next steps.

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- The visit took place on 25 January 2020 where the wholesaler had informed it that it will now be charging the customer on a Band 10 for surface water drainage as it had been out and re-measured the site.
- The wholesaler informed it that the new charge will take effect from 1 April 2019 which is the last financial year when the claim was made. The claim was made on 17 December 2019.
- It had raised the customer's request to the wholesaler on a number of occasions to see if they would be willing to backdate the surface water drainage charge further than 1 April 2019, however, the wholesaler had confirmed that the customer had not queried this charge prior to December 2019 and therefore there would be no further credits being applied to the account as it had followed policy. In addition, it can also advise that (REMOVED) provided some further clarity on the fact that it requested the proposals for the drainage of the site, but the customer failed to submit this at an earlier stage.
- It has thoroughly investigated the account and it is unable to apply any further credits to the account. As the retailer, it has fulfilled its obligations on the customer's behalf to raise this to wholesaler and it has subsequently challenged (REMOVED) in relation to backdating the new surface water drainage charge further than 1 April 2019. Therefore, it believes it has done its utmost to achieve the customer's desired outcome.
- (REMOVED) backdated the charges to the last financial year; the claim was made in line with (REMOVED)'s policy and what XWater would expect.

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. 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. Adjudication is an evidence-based process.
2. 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.
3. Please note that this adjudication can only deal with the issues as set out by the customer in his WATRS application form dated 27 August 2020.
4. Please also note that for the purposes of this decision my role is to decide the issues between the customer and the company only. Any issues in relation to the Consumer Council for Water (CCW) or other third parties cannot be considered.

Wholesaler and Retailer

5. In April 2017, the water market in England opened up to retailers and all non-household customers were moved to a retail/wholesale structured service.
6. The evidence shows that the company is the retailer of sewerage services to the customer and (REMOVED) is the wholesaler. Retail companies and wholesale companies are separate organisations. The customer has a contractual relationship with the retailer but not the wholesaler. Under the Water Redress Scheme, a customer can only make a complaint against the company with whom they have a contractual relationship with. Therefore, I can only make findings relating to the issues between the customer and the company. I cannot make any findings in relation to (REMOVED).

Surface Water Drainage (SWD) charges

7. The evidence shows that (REMOVED), and not the company, is responsible for deciding the surface water drainage charges for the property and for considering any requests for a rebate.

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8. The company's duty to the customer is to contact the wholesaler and raise any queries on behalf of the customer.
9. The evidence shows that the company has contacted the wholesaler and raised the matter on the customer's behalf. The evidence also shows that the wholesaler has confirmed on a number of occasions that it will not backdate the SWD charges any further than 1 April 2019.
10. The company has submitted the wholesaler's responses in evidence. This correspondence confirms that under the wholesaler's Scheme of Charges all SWD updates take effect from 1 April of the financial year in which the claim was made.
11. As explained above, any claim or complaints against (REMOVED) cannot be considered under this adjudication. It falls outside of my remit to challenge or query the wholesaler's policy.
12. I acknowledge the customer's submissions that the wholesaler's and retailer's decision to limit the adjustment to this financial year is unfair and unreasonable. However, any question regarding the fairness or otherwise of a wholesaler's or retailer's policies fall outside the scope of WATRS and cannot be considered.
13. The company's duty is to contact the wholesaler and liaise on behalf of the customer, and the evidence shows that the company has fulfilled this obligation. The company has therefore provided its services to the customer to the standard to be reasonably expected in this regard.
14. This claim is unable to succeed.

Outcome

The company does not need to take any further action.

What happens next?

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.

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 21 October 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.
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Adjudicator

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