

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /2078

Date of Decision: 28 October 2020

Complaint

On 19 May 2020, the customer received a letter from a debt collection agency demanding £101.72 for an unpaid bill from August 2015. The company had made no attempt to contact the customer about the debt before this and the customer feels that it is unreasonable for the company to have waited five years before asking him to pay a debt he did not know he had. Also, the outstanding charges are from an account the customer shared with a housemate and it is unfair that the company are asking him to pay the full debt when another person is also responsible. The customer wants the company to remove the outstanding balance of £101.72.

Response

Section 142 of the Water Industry Act 1991 gives the company the power to charge its customers for water services. In line with the company's debt collection policy, it sent several letters to the customer about the unpaid charges on his account, including a Notification Before Default letter, but the debt was not paid. On 14 May 2020, a debt collection agency sent a letter to the customer asking him to pay the outstanding charges. The customer says he had not received any correspondence about the debt before this letter arrived, but a review of the account showed that all the bills and letters had been correctly addressed. The customer states that it is unfair to chase him for the full payment when his former housemate is also liable; however, wastewater service charges are payable on a joint and several basis so the company is entitled to ask the customer to pay the full debt. The customer says that it is unreasonable to chase him for a debt five years after it became payable; however, as six years has not passed since the charges became payable in February 2015, the customer is still liable to pay. In view of the above, the charges are correct and payable.

The company has not made a settlement offer.

Findings

Having reviewed the evidence provided by the parties, I accept that the customer owes the company £101.72 from August 2015. The customer says that the company failed to tell him about the debt until he received a letter from

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a debt collection agency on 19 May 2020; however, the evidence shows that the company sent bills and reminders to the customer in 2015. The customer says that it is unreasonable of the company to ask him to pay the charges five years after they became payable; however, I accept that the company is still legally entitled to ask for payment. The customer also says that it is unfair of the company to ask him to pay the debt in full as he shared the account with his housemate; however, I accept that the company is legally entitled to ask the customer to pay all of the outstanding charges by himself. In view of the above, while I accept that the situation is very frustrating for the customer, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer and the customer's claim cannot succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 25 November 2020 to accept or reject this decision.

ADJUDICATOR'S DECISION

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Date of Decision: 28 October 2020

Party Details

Customer: The Customer

Company: XWater

Case Outline

The customer's complaint is that:

- On 19 May 2020, he received a letter from a debt collection agency demanding £101.72 for a debt owed to the company.
- He called the company many times to ask what the charges were for; the company eventually told him that the debt was an unpaid balance from an account he shared with a housemate in August 2015.
- He had no idea he owed any money to the company before he received the debt collection agent's letter; the company had made no attempt to contact him about the debt before this, even though he still lives at the same address and still has the same telephone number. The company says it sent him a Notification before Default, but he did not receive it.
- On 23 October 2015, he telephoned the company to say that his housemate had moved out in March 2015. The company says that, as a result of this telephone call, the joint account he had with his housemate ("the First Account") was closed with a balance of £101.72, and a new account ("the Second Account") was opened in his sole name. However, he did not know about or consent to this. The company says it sent him a welcome letter in October 2015 to confirm that the Second Account had been opened, but he did not receive it.
- In 2016, he set up a payment plan with a debt collection agency to clear an outstanding balance on the Second Account. He believed that all outstanding debts to the company were included in this payment plan and he paid the debt off in full. During this time, he was in regular contact with the company by telephone regarding the settlement of his account and at no time was there any mention of a separate outstanding balance from the First Account.

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- As the outstanding charges are from a joint account, he thinks it is unfair that the company are asking him to pay the full debt when his former housemate is also liable. He also thinks it is unreasonable that the company have waited for five years before asking him to pay.
- The company have told him that the debt has been withdrawn from the debt recovery agency and that an administration fee of £45.00 has been removed from the account, but it insists that the outstanding balance on the account is still owed.
- He wants the company to remove the outstanding balance of £101.72 from his closed account.

The company's response is that:

- Section 142 of the Water Industry Act 1991 allows it to charge any person who it provides services to. Section 143 allows it to make a charges scheme to fix the charges to be paid for any of the services it provides.
- It has a debt recovery process to enable collection of unpaid service charges and sometimes it employs debt collection agencies to help recover unpaid debts. Before any debt recovery action is taken, customers receive a letter to advise them that they are in debt and the customer is asked to make a payment or a payment arrangement. Before a customer's account is sent to a debt collection agency, the customer is sent both a Default Notice and a Pre-Agency Notice.
- The customer's complaint relates to a debt of £101.72 owed for wastewater services provided during the period 12 February 2015 to 4 August 2015.
- In order to show that the outstanding charges are correct and payable, the company says it is important to explain that the customer has had two accounts at the property since he moved in; the First Account in the name of the customer and a second occupier that was opened on 13 October 2012 and closed on 4 August 2015, and the Second Account in his sole name that was opened on 4 August 2015.
- In 2013, the First Account had an outstanding balance and, therefore, it sent a number of pre-action letters; a payment reminder letter addressed to both occupiers was sent on 14 March 2013 and a Notification of Default letter was sent to both the customer and the second occupier, individually, on 6 April 2013. This was followed by a further payment reminder addressed to both parties jointly on 13 March 2014.
- Further correspondence was also sent; a bill for £101.72 for the period 12 February 2015 to 4 August 2015 was sent to both occupiers jointly, a payment reminder dated 1 October 2015 was sent to both occupiers jointly, and Notification before Default letters were sent on 19 October 2015 to both the customer and the second occupier individually.
- On 23 October 2015, a few days after the Notification before Default letters had been issued, the customer telephoned to say that the second occupier had left the property in March 2015

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and that he would be solely responsible for the bills going forward. Therefore, the First Account was closed on 4 August 2015 and the Second Account was opened in the customer's sole name. The customer said he would pay the First Account's closing balance of £101.72 by 27 October 2015; however, the payment was not received.

- On 14 May 2020, UK Search Limited, a debt collection agency, sent a letter to the customer asking him to pay the outstanding debt.
- On 19 May 2020, the customer complained about the letter and the customer's account was recalled from the debt collection agency.
- On 2 June 2020, it telephoned the customer and explained that the First Account had been sent to the debt collection agency due to an outstanding bill. The customer gave permission for it to speak with his partner, Miss Bax, on his behalf. Miss Bax asked for the debt to be cancelled on the basis that the customer had not been made aware of the debt over the five years it had been outstanding.
- Following a review of the customer's account, it telephoned the customer to confirm that joint and individual letters had been sent about the outstanding balance and, as the customer had not moved and his contact details were unchanged, the bills, reminders and other letters had been correctly addressed. Therefore, the customer was told that the outstanding balance could not be cancelled.
- The customer states that he had a payment plan with a debt collection agency in 2016 and that the £101.72 debt should have been included in that.
- However, the payment plan the customer set up in 2016 with a debt collection agency was for outstanding charges on his Second Account and had nothing to do with the debt on his First Account. Therefore, the debt of £101.72 is still owed.
- The customer says that it is unfair to chase him for the full payment when his former housemate is also liable. However, wastewater service charges are payable on a joint and several basis. This means that either occupier can be asked to pay the full amount owed individually. As the customer was an occupier between February and August 2015, the period of time the disputed charges relate to, he is liable to pay the outstanding charges.
- The customer says that it is unreasonable to chase him for a debt five years after it became payable. However, as a period of more than six years has not passed since the charges became payable in February 2015, the Limitation Act 1980 does not apply and the customer is still liable to pay.
- In view of the above, the company says that the charges are correct and payable.

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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. Having reviewed the evidence provided by the parties, I accept that the payments made by the customer through debt collection agencies in 2016 and 2017 were towards the outstanding charges on the customer's Second Account and that no payments have been made on the First Account since March 2015. Also, having reviewed the bills, payment reminders and the statements of account, I accept that the sum of £101.72 remains outstanding on the customer's First Account.
2. The customer says that he received no notification that there were outstanding charges on his First Account until he received a letter from a debt collection agency on 19 May 2020. However, the evidence shows that the company sent bills and reminders to the customer in 2015. The company states that it also sent a Notification before Default to both the customer and the second occupier on 19 October 2015, but I note that only one Notification before Default is included in evidence and it is addressed to the second occupier.
3. On balance, however, while I accept that the customer was not contacted about the outstanding debt on his First Account between October 2015 and May 2020, I cannot find that the company

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failed to tell the customer about the debt. In view of this, I cannot find that the company failed to provide its service to the standard reasonably expected by the average customer in this regard.

4. The customer says that it is unreasonable of the company to ask him to pay the charges five years after they became payable. Whilst I understand that it must be very frustrating for the customer to be asked to pay this debt after so long, I accept that the company is not prevented from demanding payment by the Limitations Act 1980 as it has asked for payment within six years of the debt being payable. Therefore, I cannot find that the company's failure to chase the debt earlier amounts to a failing on the company's behalf.
5. The customer says that, as the First Account was shared with the second occupier, it is unfair of the company to ask him to pay the debt in full. However, the company states that its charges are made on a 'joint and several' basis and, consequently, it is entitled to chase either or both of the occupiers for the payment of the outstanding bill. Having considered the evidence, I accept that the company is legally entitled to ask the customer to pay all of the outstanding charges by himself and I find no failing on the company's behalf in this regard.
6. In view of the above, while I appreciate that the customer will be disappointed by my decision, 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 25 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.

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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.

KS Wilks

Katharine Wilks

Adjudicator

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