

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-XX21

Date of Decision: 28/01/2021

Complaint

The customer complains the company's assets are causing a noise nuisance and it has failed to properly investigate and resolve this. He would like the company to further investigate to identify the cause of the noise and resolve this. It should also work with any third party it believes may be at fault.

Response

The company asserts it has investigated and found no fault on its assets. It denies the customer's claims.

Findings

The customer has not proven the company failed to provide its services to the standard to be reasonably expected.

Outcome

The company does not need to take any further action

The customer must reply by 25/02/2021 to accept or reject this decision.

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Date of Decision: 28/01/2021

Party Details

Company: X Company

Case Outline

The customer's complaint is that:

1. Since October 2019 he has heard a mechanical noise coming from below his property. The noise has been worse at night, affecting his sleep. He believes the noise is due to operations at the company's nearby pumping station, as this experienced faults at around the same time the noise began. However the company has denied this is the cause. He would like the company to further investigate to identify the cause of the noise and resolve this. It should also work with any third party it believes may be at fault. I note the customer has not commented on the company's response to his complaint.

The company's response is that:

1. All tests on its network and assets in the area, including the pumping station, have been exhausted and no fault has been found on its assets. It carried out various works to its assets after the customer reported noise nuisance. However, even once works were complete the customer continued to be affected by noise. It has not heard any noise from its assets and those living closer to its pumping station are no longer affected by noise. It has therefore advised the customer to contact Environmental Health for assistance, as it is satisfied its own assets are not the cause of any noise.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

- Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
- 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.

Customer: The Customer

How was this decision reached?

1. I remind the parties that the evidence must show, on a balance of probabilities, that the company has failed to provide its services to the standard to be reasonably expected.

I acknowledge the customer believes the noise nuisance he experiences arises from the company's assets. However, I have not seen any substantive evidence which proves that is the case.

Upon the customer's complaints, the company carried out necessary repair works to its assets, however the customer continued to experience noise nuisance. The company then investigated further but found no noise emitting from any of its assets that could be heard near the customer's property.

Having reviewed the correspondence exchanged and the company's outline of the actions taken, I am satisfied the company has made reasonable efforts to investigate the cause of the noise and rule out its own assets. Once the company concluded it was not responsible for any noise nuisance, I do not consider it reasonable to expect it to continue investigations or work with third parties to further investigate.

I consider the company acted appropriately in then referring the customer to Environmental Health, which is under a duty to investigate complaints of noise nuisance.

In light of the above, I find the customer has not proven the company failed to provide its services to the standard to be reasonably expected. I therefore find the customer's claim for the company to take further action to investigate and address the noise disturbance is unable to succeed.

In comments on my preliminary decision, the customer confirmed he believes the noise is transmitted through pipework. However, I already understood that to be his position and therefore this does not affect my decision.

That a third party may have carried out more extensive investigation into the cause of the noise does not mean the company is obliged to do the same.

I also remind the parties that I cannot consider any matters raised in the customer's

comments that were not part of the initial complaint to WATRS.

I acknowledge the customer disputes the company's position, however that does not mean I can find a failing has been proven.

Outcome

1. The customer has not proven the company failed to provide its services to the standard to be reasonably expected.

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 within 20 working days to accept or reject this final 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.

Justine Mensa-Bonsu
Adjudicator