

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-XX04

Date of Decision: 09/02/2021

Complaint

The customer says that the Property has been damaged by water that leaked from one of the company's pipes. He requests compensation of £6,000.00.

Response

The company says that there is insufficient evidence that water from the pipe reached the Property.

No settlement offer has been made.

Findings

It is more likely than not that water from the company's pipe entered the Property, causing damage.

Outcome

The company needs to take the following further action: It must pay the customer compensation of £1,624.40.

The customer must reply within 20 working days to accept or reject this decision.

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Party Details

Company:

Case Outline

The customer's complaint is that:

1. The customer's complaint is that: • On 9 June 2020, an engineer from the company highlighted to him the existence of a leak that reached an area less than one meter from the Property. • The leak was repaired on 16 June 2020. • He has experienced rising damp in his living room, which he believes was caused by this leak. • The company denies that the damage to the Property would have been caused by the leak. • He has had damp specialists inspect the Property and they have confirmed their belief that the problems he is experiencing were caused by the leak. • He requests compensation of £6,000.00. The customer's comments on the company's response are that: • There has been a second leak down the road from the Property and the company has accepted liability for the damage caused by this second leak. • He challenges the independence of the surveyor instructed by the company. • He argues that the report produced by the surveyor is inadequate in a number of respects. Comments on the Proposed Decision: • The customer stated that "Although the amount is far less than what I was looking for, in the interest in bringing this saga to a close I'm happy with the level of compensation put forward in the conclusion from Watsr".

The company's response is that:

1. The company's response is that: • The leak was reported on 9 June 2020 and fixed on 16 June 2020. • There are no records of a leak in the area prior to 9 June 2020. • The area was surveyed by the company's leakage team in early May 2020. • The leak was repaired while the mains was live, indicating that the leak was not severe. • The company denies that any damage was caused to the Property by the leak, and believes that this conclusion is supported by a report it commissioned from a specialist surveyor. • The customer has stated that a survey was performed when he purchased the Property, but this survey has not been provided so that the past condition of the Property can be confirmed.

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:

How was this decision reached?

1. The company acknowledges that a leak occurred near the Property, and that under Section 209 of the Water Industry Act 1991 it is strictly liable for all damage caused as a result. However, the company argues that there is insufficient evidence that the damage identified by the customer was caused by the leak.
2. The company has produced a report from an independent surveyor that it argues supports its position. The customer has challenged the independence of this surveyor, emphasising a prior connection between the surveyor and the loss adjusters relied upon by the company. However, the most recent substantive connection identified by the customer is from 2006, and while the connection was clearly intimate, no evidence has been produced of any ongoing or subsequent substantive connection between the surveyor and the loss adjuster. I find that this connection is too distant to justify a finding that the surveyor cannot be relied upon to act independently and professionally.
3. Nonetheless, while the detailed report produced by the surveyor does express the surveyor's doubts that the leak affected the Property, it also acknowledges that water from the leak may have entered the cellar through the porous walls. Based on the evidence provided by the parties I find that it is more likely than not that this happened. The company acknowledges that the water from the leak travelled a significant distance to reach a place beside the wall of the Property and no

evidence has been produced of an impermeable barrier or similar obstacle that would have prevented the water travelling further, ultimately reaching the porous walls of the cellar. In addition, the customer has presented clear evidence of the wall nearest to the leak being substantially more damp than the other walls in the cellar.

4. However, while I find that it is more likely than not that water from the leak entered the Property, the surveyor's report provides convincing evidence, even though challenged by the customer, that there were already issues with damp in the Property connected to the cellar. I cannot, therefore, find that the damp issues highlighted by the customer were in their entirety more likely than not caused by water from the leak reaching the Property.

5. However, based on the evidence provided by the parties I find that it is more likely than not that water from the leak entering the cellar worsened the damp already present, causing damage to the Property that would not have occurred, within a reasonable period, without the leak. I find, therefore, that while the damage identified by the customer may have ultimately occurred anyway at some point in the future, its occurrence at this time and in this manner was a direct result of water escaping from the company's pipe. As a result, under Section 209 of the Water Industry Act, the company is liable for that damage.

6. The customer has produced two quotations for the damage caused to the Property and these quotations are for very different amounts and incorporate very different work. I accept that the quotation produced by redacted relates only to work required due to the impact of the leak on the Property. On the other hand, I find that the quotation produced by redacted contemplates far more extensive work that would leave the Property in better condition than before the leak, including work to improve the cellar. The company's only responsibility is to compensate for damage caused by the leak. As a result, I find that the redacted quotation accurately measures the damage to the Property caused by the leak.

7. Consequently, the company must pay the customer compensation of £1,124.40.

8. The customer also requests compensation of £700.00 for the inconvenience and distress that he has experienced.

9. In consultation with the compensation standards laid out in the WATRS Guide to Compensation for Inconvenience and Distress, I find that fair and appropriate compensation would consist of £500.00. This reflects that the customer has been distressed and inconvenienced by the impact of the leak on the Property, and that he will be further inconvenienced by the repair work to be undertaken. However, it also reflects that the company responded within a reasonable time to the

customer's complaint, undertook a detailed and careful examination of the problem, and that I do not find any evidence of the company acting in bad faith.

10. Consequently, the company must pay the customer compensation of £500.00 for inconvenience and distress.

11. For the reasons given above, the company must pay the customer total compensation of £1,624.40.

Outcome

1. The company needs to take the following further actions: It must pay the customer compensation of £1,624.40.

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.

- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date in which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

Tony Cole
Adjudicator