

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X277

Date of Decision: 31/03/2021

Party Details

Customer:

Company:

Complaint

The customer has one business premises and one meter, however, he has been charged surface water and highway drainage ("SWHD") for two premises since 1997. The customer queried this with X("theWholesaler") in 2012 and he was sent an abatement application form; however, he did not return the form as he was asked for information he was unable to provide. In February 2020, he submitted a form to the company but his application was rejected. The company then asked for a drain layout, which was impossible for him to provide, and a site plan, which he drew himself. The customer's application was finally accepted on 29 June 2020, but the reduction in charges was only backdated to 1 April 2020. The customer would like the incorrect SWHD charges refunded from 2012, when he first raised this issue with the Wholesaler, and an apology for the time this matter has taken to resolve.

Response

X("theWholesaler") is responsible for authorising SWHD adjustments, not the company. The customer first queried his SWHD charges in 2012, however, he did not provide a completed SWHD abatement application, with all the necessary supporting information, to the Wholesaler until June 2020. Therefore, under the Wholesaler's policy, the customer's SWHD refund cannot be backdated further than 1 April 2020.

The company has not made an offer of settlement.

Findings

The Wholesaler, not the company, is responsible for assessing the customer's eligibility for a SWHD adjustment, and the company is responsible for applying any authorised adjustment to the customer's

account. As the Wholesaler is not a party in this case, I am unable to make a finding regarding the Wholesaler's decision not to backdate the reduced charges to 2012. Therefore, the customer's claim for a refund of overpaid charges does not succeed. Also, as I have found no failing on the company's behalf, I am unable to direct the company to apologise to the customer.

Outcome

The company does not need to take any further action.

The customer must reply by 28/04/2021 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

1. • The dispute is about the overpayment of SWHD charges. He has one premises and one meter, however, he has been charged SWHD for two premises since 1997; account number X for a workshop and account number X for a garage. • He queried this with the Wholesaler on the telephone but was told that there was no error, so he continued to pay the bills. However, in 2012, his friend, a surveyor, told him that there should only be one bill for SWHD, so he contacted the company by telephone again. The company has a record of this and says that a form was sent for him to complete and return but he did not return it. This is correct, however, he did not return the form because he was asked for information he was unable to provide and the company failed to follow it up. • In February 2020, he submitted a form to the company but his application for a refund of charges was rejected. The company wanted a drain layout, which was impossible for him to provide, and a site plan, which he drew himself. The plan was submitted, but the company said it had not been and closed the case. After threatening to stop paying his second bill, his application was finally accepted on 29 June 2020, but the reduction of charges was only backdated to 1 April 2020, so he referred his complaint to CCW. • CCW challenged the company about this matter and asked for the reduction to be backdated to 2012, when he first raised the issue with the company; the company rejected this request and even refused to backdate the application to the date the form was submitted in February 2020, which would have allowed a refund of the overpaid charges from April 2019. • The total site area is 3402 square metres, which fits into Band 10 for charging purposes. However, CCW pointed out that it is very difficult for customers to clearly see the site banding information from the bills provided by the company and the Wholesaler, as the bills state the band but not the area that it relates to. The customer would have had to search for the relevant Scheme of Charges to find this information. Further searches would then have to be undertaken to understand how this is calculated and how to change this with the company. • The current Scheme of Charges states that the customer should contact the company to query charges either in writing or via telephone, but there is no mention that a completed application form needs to be submitted and accepted by the Wholesaler before the charges can be amended. • The Wholesaler has not provided a site area map of its calculations and no visit has been undertaken; this may mean that the charges

have always been based on a desktop survey and are incorrect, but the company has never challenged this. • The customer would like the incorrect SWHD charges refunded from 2012 when he first raised this issue with the Wholesaler. According to the 2020-2021 Scheme of Charges, Band 10 charges are £1,895.36 per year. • He would also like an apology for the time taken to resolve this issue.

The company's response is that:

1. • On 26 November 2012, the customer called the Wholesaler to question why he had two separate account numbers for the same property and was being billed for SWHD twice. The customer was provided with an application form for a SWHD adjustment but did not return it. • On 22 February 2018, the customer requested a SWHD form. • On 28 January 2020, the customer called again to ask why he had two accounts. • On 8 January 2020, the customer provided a site map to show his premises, however, the map did not show any measurements. Therefore, it emailed the customer and asked for more details. • On 20 February 2020, the customer questioned why he was being charged for SWHD twice and an application was sent to the Wholesaler to investigate. • On 25 February 2020, it emailed the customer and asked for an external drainage layout. • On 26 February 2020, the customer responded to say that it was very difficult to provide a drain layout as he had been in the premises since 1996 and the yard was covered with concrete. This information was forwarded to the Wholesaler. • On 17 March 2020, it emailed the customer because the Wholesaler wanted a more detailed site map that included as much information as possible, including a breakdown of length and width measurements and a land registry map. • On 21 April 2020, an email was sent to the customer stating that the Wholesaler was going to close the case as it had not received the required measurements or the site area map. • On 27 April 2020, the customer emailed and said he was unhappy that the Wholesaler had requested architectural drainage plans. • On 11 May 2020, it emailed the customer to make him aware that without the requested information, the Wholesaler would not consider his application. • On 12 May 2020, the customer called to advise that he was unhappy with the response. • On 20 May 2020, the customer emailed to say he had already sent a scaled site plan and put his own measurements on it, and he asked for confirmation that this had been received. In response, an email was sent to the customer to say it had not received the site area plan. • On 26 May 2020, it received a detailed site plan and forwarded this to the Wholesaler. • On 1 June 2020, it sent an email stating that the Wholesaler needed the total site area size. • On 10 July 2020, the customer stated that he had given the measurements over the phone and the information had been passed to the Wholesaler. • On 24 July 2020, the Wholesaler confirmed that a site visit has been requested. • On 11 August 2020, the customer called and said he had been paying for two accounts and wanted a refund. • On 16 September 2020, the customer was told that, due to him not providing a site area map back in 2012, the Wholesaler would not refund

the charges to 2012, and the reduced charges would be backdated to 1 April 2020.

• On 8 October 2020, a CCW Pre-Investigation letter was received and a complaint was raised with the Wholesaler. • On 21 October 2020, the Wholesaler's response was received. This stated, "According to our records, there is only one contact found dated 26 November 2012 where we received a contact from the customer advising they had two separate accounts for the same property being billed twice for surface water drainage. The account is billed on a Surface Water and Highways Drainage band 10 whilst the other is billed on a Surface Water and Highways Drainage band 9. We advised at the time that if the customer wanted the site to be measured as one site for Surface Water and Highways Drainage then they will need to submit a site plan. No site plan was received." • In view of the above, the Wholesaler cannot be held responsible for failing to address the issue in 2012 because the customer did not provide the required information. The customer did not raise the issue again until 1 March 2018 and did not provide a fully completed application with all the necessary supporting information until after 1 April 2020. Therefore, the Wholesaler provided a refund of charges from 1 April 2020 in line with its policy. • In any event, the customer's claim cannot succeed as the company is not responsible for granting SWHD charge refunds; this is a matter dealt with by the Wholesaler and, as such, it denies responsibility to refund the customer's charges.

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.

How was this decision reached?

1. Having reviewed the evidence provided by the parties, I find that the company is the customer's retail provider and is responsible for billing, accounting and

customer services. X is the customer's wholesaler and, as such, is responsible for the maintenance and repair of the water and sewerage assets and, amongst other things, the calculation and authorisation of surface water charges and rebates. Therefore, A Water, not the company, is responsible for assessing the customer's eligibility for a surface water charge adjustment, and the company is responsible for applying any authorised adjustment to the customer's account.

2. In order to make a decision in this matter I must clearly distinguish between actions taken by the Wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.

3. The customer wants the Wholesaler to authorise the company to apply a refund of surface water charges to his account from 2012. Therefore, the Wholesaler's decision not to backdate the refund further than 1 April 2020 is central to this dispute. However, as explained above, because the Wholesaler is not a party in this case, I am unable to adjudicate on the conduct, or liability, of the Wholesaler. Whilst I fully appreciate that my decision will disappoint the customer, I am unable to make any determination regarding the Wholesaler's refusal to backdate the charges to 2012. Therefore, while I appreciate that this is not the outcome the customer hoped for, the customer's claims for a refund of overpaid charges cannot succeed.

4. For completeness, I add that the evidence demonstrates that the company engaged with the Wholesaler regarding this matter and accurately conveyed the customer's position to the Wholesaler. In view of this, I am unable to conclude that the company has failed to effectively operate as an intermediary between the Wholesaler and the customer, or that the company has failed to provide its service to the standard reasonably expected by the average customer. Therefore, I am unable to direct the company to apologise to the customer.

Outcome

1. 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.

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Kate Wilks
Adjudicator