

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X189

Date of Decision: 05/05/2021

Party Details

Customer: The Customer

Company: X Company

Complaint

The customer says that she lost the opportunity to lower her bill due to failings by the company. She requests that the company reimburse her the savings she could have made if she had received the comparison letters it had promised to send and so had been able to switch earlier. She also requests compensation for the inconvenience and distress she has experienced.

Response

The company says that the customer was sent the comparison letters that were promised. It acknowledges that there were customer service failings, but says that the customer has already received compensation for these failings.

No offer of settlement has been made.

Findings

The company provided its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 02/06/2021 to accept or reject this decision.

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X189

Date of Decision: 05/05/2021

Case Outline

The customer's complaint is that:

• She was contacted by the company and advised that a water meter would be installed under its compulsory metering scheme. • The scheme includes a two year consultation period during which she could have chosen to move to a meter early. • Errors by the company resulted in a delay in activation of the meter and then a failure by the company to send the comparison letters promised under the scheme. • If she had received the comparison letters she could have switched to a meter earlier and saved hundreds of pounds. • The company says it sent the letters, but she did not receive them. • She has experienced repeated poor customer service and has had to chase up the company about her complaint. • She requests that the company reimburse her the savings she could have made if she had received the comparison letters and so had been able to switch earlier. She also requests compensation for the inconvenience and distress she has experienced. The customer's comments on the company's response are that: • She repeats that she did not receive the comparison letters and argues that the company has only produced internal notes, not evidence that the letters were actually sent. • She argues that the problems she has experienced with the company's customer service support her position that the letters were not sent.

The company's response is that:

• The customer was notified in 2016 that she would be receiving a water meter under the company's Progressive Metering Programme ("PMP"). The document supplied to her at the time notified her that she would receive comparison letters and that she could choose to switch to a meter early. • The customer made contact on 16 May 2017 to note that she had not received the comparison letters promised under the PMP. • The company determined that the meter had not been returning readings. • The customer's meter was correctly activated on 5 September 2017 and the customer was sent another reminder about the restarted two-year adjustment period and her option to switch to a meter early. • The customer was sent the four comparison letters promised under the PMP. • The customer was switched to a meter on 6 September 2019. • As the customer did not request an early switch she was not entitled to reimbursement of her extra charges above those recorded by the meter. • The customer has acknowledged receiving one of the four comparison letters. • The company acknowledges that there have been customer service failings, but the

customer has already received compensation payments for these failings. • The company denies that the customer is entitled to further compensation.

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. In many disputes, the evidence as to precisely what happened will be to some degree unclear, and the law addresses this uncertainty through what has come to be known as the "balance of probabilities" test. Under this test, the decision-maker must look at the evidence provided by the parties, and decide what is most likely to have happened based on that evidence. Importantly, this decision is only based on the evidence provided by the parties, and so is made with full knowledge that the evidence provided may in some way be misleading, or that there may be additional evidence that would justify a different conclusion. However, as a decision must be made, it must be made based on the evidence actually provided, not on the decision-maker's unsupported speculations regarding what may or may not have happened.
2. In addition, the law requires that disputes be decided in accordance with "burdens", with the customer having the "burden" of producing evidence to support the claim. This means that if the evidence provided by the parties is evenly balanced between the accounts of the two parties, or is otherwise insufficient to justify a conclusion that the customer's account is more likely than not correct, then the customer has failed to meet the burden and the claim cannot succeed. Again, this evaluation must be made based on the evidence actually provided by the parties, not based on unsupported speculation by the decision-maker regarding

what may or may not have happened.

3. In the present case, the dispute between the parties centres on the question of whether or not the customer was sent the comparison letters promised under the PMP. The customer argues that she was not and that as a result she was deprived of the ability to compare her non-metered bills with her metered bills, in turn losing the opportunity to switch to a meter early and so save money. The company argues that its records show that the required comparison letters were indeed sent to the customer.

4. Ultimately, in disputes such as this there will never be completely decisive evidence whether or not a letter was received, but the company has fulfilled its obligation to the customer if the letters were sent, whether or not they were actually received. In this respect, while I accept the customer's point that the mere fact that the company's records say that a letter was sent does not prove that it was received, or even actually sent, it does create a presumption that the letters were sent.

5. Moreover, the customer acknowledges that she did receive one of the comparison letters and that she was aware that comparison letters were meant to be sent. Indeed, it was the customer, rather than the company, that noted that the customer's original meter was not reporting properly, when she made contact to ask why she had not received the comparison letter that she expected.

6. In this context, in which the company's records show the letters being sent, the customer acknowledges being aware that the letters should be sent and has previously complained when one was not sent, and the customer acknowledges having received one of the letters, I must find that it is more likely than not that the letters were dispatched by the company as required.

7. The strongest evidence in favour of the customer's stance that she did not receive the letters is that all four letters showed the customer saving money by switching to a meter, which would make the customer's choice whether or not to switch an easy one. However, as the evidence justifies a conclusion that the letters were dispatched, and loss of mail is relatively uncommon, this must be balanced by the possibility that the customer simply missed the deadline to request an early switch due to the other obligations in her life, as happens to many people, particularly since the customer acknowledges having received one of the letters that did indeed confirm that use of a meter would save her money.

8. As I have already said, there is no decisive evidence on this question, but given the evidence that is available I must find that it is more likely than not that the confirmation letters produced by the company were sent to the customer. If they

were then not received, that would not constitute a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person, as actual delivery of mail is not within the company's power and the company was not notified that the letters had not been received.

9. As a result, the customer's request that the company be ordered to reimburse her the savings she could have made if she had received the comparison letters does not succeed.

10. The customer also requests compensation for the inconvenience and distress she has experienced and the company has acknowledged that there have been customer service failings.

11. Nonetheless, the company has also satisfactorily established that the customer has already been paid compensation for the failings she experienced other than with respect to the comparison letters, and as I have found that the company did not fail in its obligations to the customer with respect to the comparison letters I cannot award compensation in this respect.

12. In her comments on the Proposed Decision in this case, the customer requested additional compensation for inconvenience she experienced when interacting with the company. However, compensation for inconvenience can only be awarded through the WATRS scheme when that inconvenience results from a company's failure to provide its services to the customer to the standard to be reasonably expected by the average person. The use of the term "reasonably expected" unavoidably entails that there will be times that the company has provided flawed service, and the customer has been inconvenienced, but that nonetheless the customer cannot be awarded compensation through the WATRS scheme, simply on the ground that a reasonable person would not expect the company's performance of its obligations to be flawless. I have found that the company has made the payments required to the customer under its Customer Guarantee Scheme, and while I accept that the additional issues highlighted by the customer, to the extent that they are not covered by the Customer Guarantee Scheme or the discussion above, will have caused the customer inconvenience, I do not find that they rise to the level of seriousness required for the awarding of compensation under the WATRS scheme.

13. As a result, the customer's request for additional compensation relating to the inconvenience and distress she has experienced does not succeed.

14. For the reasons given above, the customer's claim does not succeed.

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.

- 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.
-

Tony Cole
Adjudicator