

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

**Adjudication Reference:** WAT-X364

**Date of Decision:** 20/05/2021

#### Party Details

**Customer:** The Customer

**Company:** X Company

#### Complaint

The customer complains that the company has given poor service in respect of its attempt to find a water leak which was identified at his property. It did not find the leak until the second day and also damaged the meter, causing the leak and resulting an additional liability for water. The customer does not want to pay for the first day's work in which a large trial hole was dug instead of gas detection and would like a reduction from his water bill.

#### Response

The company says that this was work done under section 75 of the Water Industry Act 1991 because, following service of a notice, the customer did not undertake the pipe repair. The company is entitled to recover reasonable costs. Its teams do not generally carry gas detection equipment and it is the company's policy to look for leaks by digging in the first instance. The company also says that the leaks pre-dated any work at the meter

#### Findings

The customer has not shown that the company supplied its services to an incorrect standard. It is entitled to recover the reasonable cost of repairing leaks on private land if a customer does not take action following notice under section 75. The decision to look for the leak by digging was not irrational. The customer has not shown that the company's actions damaged the meter or caused the leak.

#### Outcome

The company is not required to take further action.

The customer must reply by 18/06/2021 to accept or reject this decision.

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**Date of Decision:** 20/05/2021

## Case Outline

### **The customer's complaint is that:**

• The customer says that (REDACTED) asked for payment for 2 days' work done at site when a leak at his property was repaired. The leak concerned was only found on the second day using a gas test. • He is unhappy that (REDACTED) did not diagnose the leak on the first day and only on the second using a gas test. He says that gas testing could have been done on the first day and the customer denies liability to pay for the first day's work. • (REDACTED) say that it is standard procedure to try and ascertain the location of the leak on the first day by digging but the customer argues that the trial hole was dug too large than was necessary and has damaged his tree. The contractors also failed to return the cups in which they were offered tea.. • The customer additionally requests a sum for water lost due to damage to meters on site – he says that (REDACTED) replaced them rather than, as they say, upgraded them. • The customer asks that WATRS review his complaint and decide if he should be obliged to pay for more than one day's work on site by (REDACTED) to diagnose and repair the leak concerned. He also requests that WATRS review the customer service given to him by (REDACTED) and decide if he is due a gesture of goodwill for this.

### **The company's response is that:**

• The company says that in November 2020 its systems identified high water consumption in the area of the customer's property. • The company arranged for contractors to visit the area on 9 November 2020 and to check every boundary box. The leak on the private pipework that supplies the customer's property was identified as the source of the leak. • On 26 November 2020, a letter was issued advising of the possibility of action under section 75 of the Water Industry Act 1991 and requesting repair of the leak. • A further letter was sent on 10 December 2020 which constituted formal notice that if the leak on the customer's pipework was not repaired in 7 days, the company was entitled to do the work and recover reasonable expenses of doing so from the customer. • On 23 December 2020, the company sent a letter advising that an enforced repair would be carried out on or after 2January 2021. • On 4 January 2021, the customer contacted the company to enquire about when the work would be done. He requested that this should occur after 11 January 2021, because he was having a new drive laid. • On 5 January 2021, the customer contacted the company again, stating that the leak had been caused by the company carrying out a meter exchange. The customer was informed that the company did not believe that it had caused the

leak and, on the same day, the customer was told that the work would take place on 12 January 2021. • The repair team attended on 12 January 2021. Although a large trial hole was dug, the team was unable to locate the leak. The team therefore asked the company to arrange for gas testing. The HD team attended on 13 January 2021 and, using gas testing, found the leak beside the house. • The leak was then repaired and the customer expressed satisfaction with the work. • The customer was billed on 2 February 2021. • On 13 February 2021, the customer disputed liability for the costs of the first day's investigation, on the basis that the matter could easily have been resolved by gas investigations. He also complained that the excavation had not been correctly back-filled and that soil had been removed instead of replaced and the hole had sunk. • A complaint was also made that the contractors had left with the customer's tea cups. • The company has informed the customer that the company's standard practice is to try to find a leak by digging and not by gas testing. Its operatives do not carry the equipment for gas testing. • As for the meter, the company has no evidence of damage occurring during the works, but the meter was upgraded on 25 November 2020. • The company denies liability for the claim.

### **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.

No comments have been made by either party in response to my Preliminary Decision.

### **How was this decision reached?**

1. I find that this dispute involves, in essence, a challenge to the way that the company exercises its statutory powers under section 75 of the Water Industry Act 1991.

2. I am mindful that rule 3.5 of the rules of this Scheme state that I have no jurisdiction to deal with regulatory enforcement cases. I find, however, that although the use of powers under section 75 of the 1991 Act is a matter of regulatory enforcement, the issue here is not about whether regulatory enforcement should have taken place, but about the appropriateness of the bill that the company has raised against the customer because, he says, the work has been done inefficiently. I find that, as billing is a matter that is expressly permitted for consideration under this Scheme, I have jurisdiction to consider this dispute and the company has raised no challenge to my jurisdiction.

3. The principal issue, therefore, is whether the customer should be liable for an expense which is a consequence of the company's policy decision to use excavation as a means of detecting leaks rather than the use of gas detection methods, which in this case found the leak quickly.

4. I note that in its submissions and correspondence, the company has made reference to three reasons that are relevant to its decision in this case to ask its Investigation team to make a trial dig. These are that:

- Digging to find the leak is usually the most satisfactory method. It says that as the size of the leak was large - 24 litres per hour - it was reasonable to expect that digging to find the leak would be the best course of action. The company makes the point that its contractors do not generally use a gas detection method and they do not carry the equipment to be able to do so. The company points out that in this case a large hole had to be dug and that the workmen were impeded by the presence of a tree.
- There is an expense attached to gas detection, which is a more expensive investigation technique than groundwork investigations.
- Gas detection is not 100 per cent accurate.

5. I find that this policy approach was one that the company was entitled to make, based on its experience, and, although the customer complains about the consequences of the company's policy in his particular case, he has not been able to put forward evidence that, viewed generally, the company's approach was incorrect or irrational. Section 75 of the Water Industry Act 1991 permits the company to recover the reasonable costs of carrying out the repair work from a customer who does not repair a leak on private piping and I find that an average customer would reasonably expect the company to enforce this requirement. I find that the customer has not shown that the company incurred the expenses unreasonably and therefore I find that he has not shown that the company should be prevented from billing the customer for these expenses. Accordingly, I find that

the customer has not shown that the company has not met the expected standards.

6. As for the customer's complaint that his tree has been damaged and that the hole has not been adequately back-filled, I bear in mind that adjudication is an evidence-based process and that it is for the customer to prove that the company has not provided its services to the correct standard. In the absence of supporting evidence I find that the customer has not proved that the company failed to provide its services to the correct standard.

7. In relation to the teacups, the company has made a £5.00 credit to the customer's account. Although, therefore, I find that an average customer would not expect the company's workmen to leave with the cups in which tea had been provided, the company has provided the customer with a remedy and no further action is needed.

8. As for the customer's complaint that the company had caused the leak by replacing the water meter, I find that there is no evidence of this. Although I note that there is some uncertainty and dispute between the company and the customer about precisely whether the meter was replaced, whether the boundary box was replaced or whether the meter was upgraded, the Company says that discovery of a leak was made in late October or early November, and the change at the location of the meter was carried out on 25 November 2020. While I note that the company's letter of 26 November 2020 refers to the leak having been identified on the preceding day, the company's account of investigation at an earlier stage is also consistent with the customer's reference to the company's use of listening sticks for leak detection in October 2020. I therefore find that the leak occurred before the work done on 25 November 2020. It is therefore, I find, improbable, that whatever happened at the meter on 25 November 2020, it caused the leak. Moreover, in the event, the leak was discovered to be down the side of the house and not by the meter.

9. Finally, although the customer complains of poor customer service, no further basis on which the customer has complained of this has been explained in his application. It follows that I do not find that the company has failed to meet the expected standard in this respect.

10. It follows from my findings above that the customer has not shown that the company failed to supply its services to the correct standard. Accordingly, I do not direct the company to take any further action.

## **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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**Claire Andrews**  
**Adjudicator**