

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X238

Date of Decision: 17/06/2021

Party Details

Customer:

Company:

Complaint

The customer says that he has not been appropriately compensated for the flooding of the Property and its aftermath.

Response

The company says that full compensation has already been paid.

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 15/07/2021 to accept or reject this decision.

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X238

Date of Decision: 17/06/2021

Case Outline

The customer's complaint is that:

• The Property was flooded in January 2020. • The company placed him in temporary accommodation for 9 months. • He is unhappy with the quality of temporary accommodation provided. • His possessions were mistreated by the company's contractors. • He has been offered compensation of £1,300.00, but believes this is inadequate given the costs of the items damaged. • He requests compensation of £5,000.00.

The company's response is that:

• It accepted full liability for the flooding of the Property. • The Property was rendered uninhabitable by the flooding and the customer was provided with alternative accommodation at no financial cost to him while remedial works were undertaken. • The customer was in alternative accommodation for 7 months and 13 days. • The customer was paid compensation of £929.17 for the inconvenience of being placed in alternative accommodation. • The total settlement agreed with the customer, including this inconvenience payment, was £11,818.32. • The customer is now raising additional property damage claims that were not raised at the time the final settlement was agreed. • On 11 September 2020, the customer's solicitor confirmed that the customer's only remaining claim was for stress and anxiety. • The company has asked the customer for evidence of the cost of the toilet seat that was removed, but no evidence has been provided. • The customer has provided no support for his claim of £5,000.00. • The company denies that any additional compensation is owed.

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. While the customer's application form describes his claim for compensation as being for items damaged during the flooding of the Property, the evidence produced by the parties shows the customer also describing his claim as being for the inconvenience and distress he experienced due to the flooding, due to alleged poor handling of the remedial work on the Property, and due to being placed in alternative accommodation for an extended period. This decision will, therefore, address the customer's decision with respect to both types of claim.
2. If the customer's claim is understood as being for damaged items, as stated in the application form, it faces the obstacle that the company has already paid the customer compensation for the items he identified as damaged. The customer has not provided evidence of any additional items that can be established to have more likely than not been damaged during the flooding, but for which compensation was not paid.
3. Ultimately the customer bears the burden of producing evidence to support his claims, and absent evidence of such uncompensated damage, including evidence that makes it more likely than not that the damage was sustained during the flooding combined with an explanation why this damage was not reasonably discoverable at the time of the customer's initial settlement with the company, I must find that the customer has not produced the evidence necessary to support his claim.
4. As a result, if the customer's claim is understood as being for items damaged during the flooding, it cannot succeed.
5. However, the customer has in some of the evidence provided also described his claim for additional compensation as arising from the inconvenience and distress that he has experienced due to the flooding, due to alleged poor handling of the remedial work on the Property, and due to being housed in alternative accommodation for an extended period.
6. With respect to being housed in alternative accommodation, it must first be acknowledged that this was done at the expense of the company, without any requirement for even temporary contribution by the customer. In addition, no evidence has been provided on the basis of which I could reasonably conclude that

the customer was re-housed in inappropriate accommodation.

7. The available evidence does show the customer complaining about his experiences in his accommodation, however those experiences relate to actions by third parties over which the company had no reasonable control and that were not inherent to the accommodation provided. In addition, I find that the company provided its services to the customer to the standard to be reasonably expected by the average person when incidents arose relating to this accommodation, re-housing the customer when one provider required that he be moved, and directing the customer to raise complaints about his neighbours in a further accommodation to the accommodation provider.

8. The company has also established that the customer has been provided with compensation of £929.17 for the inconvenience and distress inherent in being placed in alternative accommodation. Taking into account that the company bore the full cost of the customer's alternative accommodation, I find that this payment is a reasonable one for the inconvenience and distress experienced by the customer in this respect.

9. The customer has also in some communications suggested that he is entitled to additional compensation for the distress he experienced due to the flooding itself. However, as emphasised by the House of Lords in *McLoughlin v. O'Brian*[1983] 1 AC 410, English law does not provide compensation for "grief, distress or any other normal emotion", but only where a claimant has developed a "recognisable psychiatric illness" due to their experience. While I accept that the customer will have experienced distress due to the flooding of the Property, no evidence has been provided that this resulted in the customer experiencing a "recognisable psychiatric illness".

10. Compensation is available under the WATRS Scheme for the inconvenience and distress experienced by customers when a company has failed to provide its services to the customer to the standard to be reasonably expected by the average person, but I find that the company has met its obligations in this respect. No evidence has been provided on the basis of which I could reasonably conclude that the initial flooding of the Property occurred due to negligence on the part of the company; the company immediately responded in accordance with its statutory obligations; and I find that the evidence shows the company engaging with the customer in a responsive and reasonable manner, including providing appropriate compensation rather than making unreasonable challenges to the compensation claimed. While the customer has expressed his unhappiness with the company's contractors, these claims have been challenged by the company and no evidence has been provided to support the customer's claims in this respect.

11. 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