

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X598

Date of Decision: 08 October 2021

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer has a dispute with the company regarding the payment of backdated charges raised for water services. The customer contends that he had no prior contact with the company before January 2021. He states that he accepts that the company will commence billing him from that date, but he denies being liable for charges for services before January 2021. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore he has brought the claim to the WATRS Scheme and asks that the company be directed to remove the backdated charges from his account along with administrative fees that have been added for non-payment.

Response

The company states that it has complied with the appropriate OFWAT guidelines in regard to raising backdated charges at commercial properties. The company says it was not aware of the existence of the customer's business prior to January 2021, and that under the guidelines it is permitted to back-charge for sixteen months. The company has not made any offer of settlement to the customer and declines to withdraw the backdated charges.

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Preliminary Findings

The claim does not succeed. I find that the evidence does not prove on a balance of probabilities that the company has erred in issuing bills for backdated charges to the customer. I find that the company has acted in accordance with the applicable OFWAT guidelines. I further decide that the company acted correctly in applying late payment administrative charges to the account. Overall, I find that the company has not failed to provide its services to a reasonable level nor has failed to manage the customer's account to the level to be reasonably expected by the average person.

Preliminary Outcome

The company does not need to take further action.

The customer must reply by 05 November 2021 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Case Outline

The customer's complaint is that:

- He has experienced an ongoing dispute with the company concerning issues with billing. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- On 29 January 2021 he received notification from the company that it was setting up an account for the business he represents on its systems in respect of services for water supply and wastewater.
- The business is in a property divided into two separate units, the other being a domestic apartment. The customer says that previously the wholesaler issued a bill to the occupier of the apartment, and he had a private arrangement to make a contribution direct to the occupier.
- This was the first contact he had received from the company and so he contacted the wholesaler who confirmed that the company had taken over responsibility for billing commercial premises.
- He also contacted the company and provided a current meter reading and confirmed that he would commence payment to the company for charges raised as from 29 January 2021.
- The company issued an invoice in the amount of £780.55 for charges backdated to September 2019.
- He contacted the company to query the charges and was informed that it was allowed to backdate charges for a period of up to sixteen months. The customer says he was told the charges are correct, payable and would not be withdrawn.
- The customer believes it is unreasonable for the company to raise these charges and that it is a company oversight that it did not inform him at the time it took over billing from the wholesaler.

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- Despite him contesting the charges the company has continued to insist on payment and has added late payment fees to the outstanding balance and has threatened to pass the account to a debt collection agency.
- Believing the company had not properly addressed his concerns he, on 08 March 2021, escalated his complaint to CCWater who took up the dispute with the company on his behalf. The records show that CCWater contacted the company on 23 July 2021 and requested more detailed information from it and to review the customer service provided.
- The company responded to him and CCWater on 27 July 2021 with a detailed submission that sought to justify its position in respect of charges and administrative fees.
- Subsequently, on 03 August 2021, CCWater advised him that it understood the company's position was based on its compliance with OFWAT guidelines in respect of backdating for a period of sixteen months. It also noted the company says the domestic apartment was on a separate meter to the customer's premises.
- CCWater advised that it could not take any further action to have the company change its position and was therefore closing his complaint.
- The customer remains dissatisfied with the response of the company and has, on 06 September 2021, referred the matter to the WATRS Scheme where he requests that the company be directed to withdraw its backdated charges raised for the period prior to 31 January 2021 and remove late payment fees from his account.

The company's response is that:

- It provided its response to the claim in its submission dated 15 September 2021.
- According to the records there are two separate billable units at the property, the customer's premises at number 29 and a residential unit known as 29A.
- It acknowledges that the customer stated that the wholesaler issued only one bill, and this was to the residential unit and that he contributed to the payment of the charges. However, the company notes that the customer has only submitted as evidence bills raised for 29A.
- It has acted in accordance with applicable OFWAT guidelines and has advised the customer of this and provided him with a link to the OFWAT website so that he can confirm this himself.

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- Its records show that it was not aware of a separate commercial property linked to number REDACTED before January 2021 following research from its investigatory department. The company says that immediately it became aware of the customer's premises and that he was receiving water services it set up an account in the name of the occupiers.
- It acknowledges the customer's unhappiness at having to pay backdated charges, but it notes that he has benefited from not paying for water services prior to September 2019. The company confirms that under OFWAT guidelines it can only back-charge for a period not exceeding sixteen months.
- It was contacted by CCWater on 23 July 2021 and responded with a detailed submission on 27 July 2021.
- In summary, it confirms that it contests the customer's claim. For the record it states that the outstanding balance on the customer's account is correct and payable.

The customer's comments on the company's response are that:

- On 16 September 2021, the customer submitted comments on the company's Response paper. I shall not repeat word for word the customer's comments and in accordance with Rule 5.4.3 of the Rules of the WATRS Scheme I shall disregard any new matters or evidence introduced.
- The customer denies receiving water services at no cost prior to January 2021. He reiterates his previous statement that the bill was issued to the residential apartment, and he paid an amount direct to the occupier as per a private arrangement. The customer also repeats his position that prior to January 2021 he was not informed by either the company or the wholesaler that the premises would be billed in its own right, and thus he believes it is unreasonable for it to issue a high backdated bill when it should have been issuing regular more manageable bills.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

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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 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. The dispute relates to the customer's dissatisfaction that the company has delayed billing him on a regular basis and then issued a high bill for back-dated charges for a period of sixteen months. The customer also disputes the administrative fees added to his account.
2. I note that the WATRS adjudication scheme is an evidence-based process, and that for the customer's claim to be successful, the evidence should show that the company has not provided its services to the standard that would reasonably be expected of it.
3. The customer contends that the company he represents occupies one part of a property that is divided into two separate units, and that the other unit is occupied on a residential basis.
4. I can see that the customer acknowledges that his business did not receive a separate bill for water services, and that only one bill was issued for the property, and this in the name of the occupier of the residential apartment. The customer says that he had a private arrangement with the residential occupier to contribute to the charges.
5. The company states that it has complied with the applicable OFWAT guidelines. I have read the guidelines and I am satisfied that the company has so complied.
6. I note that the guidelines state that a company may back-charge a customer for a period of up to six years even if it has never previously issued a bill to the customer. I can see that the company, in this case, is restricted to back-charging only to the date that responsibility for billing was passed from the wholesaler.
7. Similarly, I can see that the guidelines appreciate that it is not always possible for a water supply company to be aware of who is occupying premises, if the layout and number of occupiers has been changed, etc. The company has stated that it has a dedicated team that monitors the changing status of properties, and that it only became aware of the existence of two separate units at the premises in January 2021.

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8. I appreciate that it was not the responsibility of the customer to advise the company of his occupation of the premises but equally I am satisfied that once the company identified him operating a business from the property, separate to the residential unit, then it was acceptable for it to commence to bill him separately.
9. My understanding from the company's Response document is that there are separate supply points for the residential and commercial units at the property. It thus seems to me that the customer was contributing to the residential bill but was not paying for the consumption at the commercial unit.
10. I thus find on a balance of probabilities that the company acted reasonably and correctly in opening an account for the customer's business and in back-charging for a sixteen-month period.
11. The customer has requested in his application to the WATRS Scheme that the company be directed to write off the back-dated charges from his account.
12. I find that the evidence establishes on a balance of probabilities that the customer was and remains liable for the payment of the charges. Additionally, I find that the evidence does not support his contention that the company is being unreasonable in backdating the charges.
13. It thus follows that I shall not direct the company to remove the back-dated charges as requested.
14. As I have found that the charges have been correctly raised, it follows that I also find that the company was correct in imposing administrative fees for the non-payment of the invoice submitted. Again, I shall not direct the company to withdraw the administrative charges.
15. My conclusion on the main issues is that the company has not failed to provide its services to a standard to be reasonably expected by the average person.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 24 September 2021.
- The customer has submitted comments on the Preliminary Decision on 27 September 2021.
- The customer contends that paragraph 8 of the adjudicator's decision is incorrect in respect of the date on which the company identified the operating of a business at the property. The adjudicator did not state a date in paragraph 8.

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- The customer further contends that paragraph 9 of the adjudicator’s decision is incorrect in respect of stating that the property has two charging points. The adjudicator stressed that the company’s evidence showed two charging points. The customer has not submitted any evidence to show that the company’s position is incorrect.
- The customer reiterates his position that he believes the company raising “large retrospective invoices” is not indicative of it providing a reasonable level of service.
- The company did not respond to the Preliminary Decision.
- Having read the customer’s comments I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

The company does not need to take any further action.



Peter R Sansom

MSc (Law); FCI Arb; FA Arb; FRICS;
Member, London Court of International Arbitration.
Member, CI Arb Business Arbitration Panel.
Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
Member, CEDR Adjudication Panel.

Adjudicator

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