

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X612

Date of Decision: 08 October 2021

Party Details

Customer: The Customer

Company: The Company, a water and sewerage company.

Complaint

The customer has a dispute with the company regarding its refusal to re-line two of its sewer pipes that pass underneath his property. The customer contends that the pipes are leaking and causing an ongoing damp problem inside his house that has necessitated replacing the floor and skirting boards and redecoration on several occasions. 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 re-line the two sewer pipes in question.

Response

The company states that it has undertaken numerous site inspections and CCTV surveys and has not identified any leaks in the two pipes. It notes that the customer has not submitted any evidence to support his contention that company assets are causing or contributing to the damp problem. The company records that it has advised the customer to involve his insurance company, but it understands he has declined to do so. The company has not made any offer of settlement to the customer and states that it believes no award is due to the customer.

Preliminary Findings

I find that the company has taken the customer's concerns seriously and has taken all reasonable steps to investigate the status of its two sewer pipes. I find that the evidence does not show on a balance of probabilities that the assets of the company are responsible for or contribute to the

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damp problem inside the property. Thus, I shall not direct the company to re-line the pipes. 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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Case Outline

The customer's complaint is that:

- He has experienced an ongoing dispute with the company concerning issues with wastewater and sewerage services. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- His property is an end of terrace stone cottage constructed several centuries ago.
- There are two number earthenware sewer pipes running parallel to each other for an approximate length of 8 metres underneath his property. The customer says the pipes are operating a combined system disposing of both foul water and surface water.
- The pipes service three number properties, including his own.
- His property has experienced an ongoing problem of damp walls and floor needing the replacement on several occasions of the floor finishing and skirting boards.
- He contacted the company in January 2021 to complain to the company that he believed the two sewer pipes were responsible for the dampness inside his house. The customer says that he requested the company to test the two pipes to confirm if they were leaking, but he was informed that the company would not do so.
- Subsequently, the company made several inspections of the pipes and undertook some minor works inside a manhole and along with a CCTV survey on several occasions. The customer says these actions did not improve the damp problem inside the house.
- In May 2021 the company advised him that it would re-line the two pipes in question. However, he says that only a short section of one pipe was re-lined and when he contacted the company again he was informed that that was the limit of its intended actions.

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- Believing the company had not properly addressed his concerns he, on 27 June 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 12 July 2021 and requested more detailed information from it and to review the customer service provided.
- On 12 August 2021 the company provided a detailed response to the CCWater enquiry. The company stated it had inspected its assets and confirmed undertaking a minor repair to one of the pipes in May 2012, but overall, it was satisfied that its assets were not causing the internal damp issues at the customer's property.
- CCWater advised him on 20 August 2021 that it believed the company would not change its position and thus confirmed that it could not take any further steps to alter the position of the company and was closing his complaint.
- The customer says that despite the intervention of CCWater, the dispute is ongoing, and the company has not changed its position and CCWater are unable to obtain a resolution between the parties. The customer remains dissatisfied with the response of the company and has, on 10 September 2021, referred the matter to the WATRS Scheme where he requests that the company be directed to provide re-line the two number sewer pipes running underneath his property.

The company's response is that:

- It provided its response to the claim in its submission dated 20 September 2021.
- It notes that the customer is the owner of the property in question but does not reside in it.
- It acknowledges that the two number sewer pipes run underneath the property.
- It records that it has always taken seriously the customer's complaints and has carried out numerous CCTV surveys, site investigations, and undertaken various minor repairs as and when necessary.
- It notes that the customer has not submitted any evidence to confirm his belief that the two pipes are leaking and causing the damp inside the house. It is confident that its investigations and surveys confirm that the pipes are not leaking.
- As a result, it cannot comply with the customer's request to re-line the two pipes.

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- It states that it is not a specialist damp company and thus has no opinion as to the reasons that the property suffers from damp.
- It has advised the customer to contact his insurers such that they may provide the specialist damp proof expertise necessary to identify the cause of the damp.
- It acknowledges that the customer was given incorrect information in January 2021 insomuch that he was advised that the company would re-line the two pipes. The company never intended this course of action, and it has credited the customer's account with the amount of £200.00 as a gesture of goodwill for the oversight.
- In summary, it confirms that its investigations have shown that the two sewer pipes are not causing or contributing to the alleged damp at the customer's property. It further states that it will not accept responsibility for the damp and reiterates that the customer has not provided any third-party independent specialist evidence to support his belief that the pipes are causing the damp.
- The company confirms it disputes the customer's claim and believes that no remedy is due to the customer.

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

- On 20 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 states that the photographs submitted by the company show the overall poor condition of the pipes. The customer also says that he has been informed by company engineers who attended his property to investigate that it was company policy not to test earthenware pipes because it already is aware that such pipes are prone to leakage. The customer repeats his belief that the pipes are leaking and are the cause of the damp in his property.

How is a WATRS decision reached?

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

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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.

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 refuses to re-line two of its sewer pipes that run underneath his property. The customer contends that the pipes are leaking and are responsible for causing ongoing internal dampness.
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. I can see that the parties agree that the customer contacted the company in January 2021. It is also agreed that the customer contended that the ongoing damp problems affecting his house were the result of the two company owned sewer pipes running underneath his being damaged and leaking.
4. The company has submitted a detailed timeline of events going back to January 2016. From my reading of the timeline I note that following some minor works to a manhole adjacent to the property in 2016, it was not until January 2021 that the customer contacted the company again.
5. I am satisfied that the company took the customer's complaint seriously and carried out numerous site inspections and CCTV surveys. I note the company attended the property at least on the following dates :-

20 January 2021

02 February 2021

15 February 2021

03 March 2021

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24 March 2021

29 March 2021

13 April 2021

16 April 2021

06 May 2021

24 May 2021

6. I can further see from my reading of the timeline that in-between the site visits the company kept contact with the customer and ensured that he remained continuously updated.
7. I also note that the company, in response to a query from the customer, had external experts examine CCTV footage and other evidence to confirm that the two sewer pipes were not leaking.
8. I also take into consideration that the company has undertaken items of minor repair where they have been identified by the site investigations and CCTV surveys.
9. I note that the customer has submitted a considerable volume of evidence, although I can see that this comprises overwhelmingly of copies of e-mail exchanges he had with the company.
10. The customer has not supplied any technical evidence from independent third-party drainage, plumbing, or damp specialists to support his claim that company assets are causing the damp problem at the property.
11. I also keep in mind that the company has advised the customer to bring the damp problem to the attention of his insurers such that they may instruct suitable experts to investigate and potentially identify the causes of the damp penetration. My understanding from the evidence is that the customer has not referred the matter to his insurers.
12. Based on my findings, I am satisfied that the company has undertaken sufficient examinations of the two sewer pipes to have established on a balance of probabilities that the pipes are not leaking and are not causing or contributing to any damp issues inside the customer's property.
13. I further find that the customer has not submitted sufficient evidence to establish on a balance of probabilities that the company assets are causing dampness inside his house.
14. Consequently, I do not find that the evidence supports the customer's request to have the company directed to re-line the two pipes underneath the property. It thus follows that I shall not direct the company to re-line the two sewer pipes.
15. On the matter of the company advising the customer in May 2021 that it had agreed to re-line the two pipes, I can see that the company has acknowledged that the customer was given incorrect information. The company has apologised to the customer for the misleading information and has made a goodwill gesture payment to him in the sum of £200.00. I find this to

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be a reasonable response from the company and I am content that the oversight had no material effect on the main issue of the dispute.

16. Overall, I am satisfied that the company has taken seriously the concerns of the customer and has responded in a reasonable manner and to a reasonable level. I find it has established that its two sewer pipes are not responsible for the dampness in the property and the evidence supplied by the customer has not established that the company is so responsible.
17. 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 28 September 2021.
- The customer has submitted comments on the Preliminary Decision on 28 September 2021.
- The customer reiterates his position as set down in his original complaint and submission.
- The customer has not submitted any additional evidence to show that the company's position is incorrect.
- The company responded to the Preliminary Decision on 05 October 2021 and stated it had no comments on the Decision.
- Having read the parties comments I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

The company does not need to take any further action.

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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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