

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X599

Date of Final Decision: 9 November 2021

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer complains on behalf of his late father who had been paying a direct debit of £171.00 per month. When the customer queried this, the company investigated, found a leak and promised to apply a leakage allowance to the account for the entire period of the leak. However, although the company has paid a leakage allowance, it has refused to backdate it to the time the leak began. In view of this, the customer wants the company to backdate the leakage allowance to the time his father's bills started to increase.

Response

The company has paid for repairing the private leak, even though it is not obliged to do so, and granted a discretionary leakage allowance in line with its policy. In view of this, the company denies responsibility to backdate the leakage allowance to the date the customer's bills first started to increase.

The company has not made an offer of settlement.

Findings

The evidence demonstrates that the company has complied with its Leakage Allowance Policy and provided the customer with the correct level of allowance. Therefore, I do not find that the company has failed to provide its service to the standard reasonably expected by the average person and the customer's claim does not succeed.

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Outcome

The company does not need to take any further action.

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Case Outline

The customer's complaint is that:

- He complains on behalf of his late father who had been paying a direct debit of £171.00 per month. When the customer queried this, the company investigated, found a leak and promised to apply a leakage allowance to the account for the entire period of the leak. However, although the company has now paid a leakage allowance, it has refused to backdate it to the time the leak began.
- He believes that the company had a duty of care towards his elderly and vulnerable parents and should have made an effort to contact them in 2012 when their bills started to increase. His parents' consumption eventually reached the amount of water that would be used to fill several Olympic sized swimming pools, but the company never even wrote a letter. When his father showed him his water statements, he could not believe that a water company could increase payments without even discussing it with the customer.
- He believes a system should be put in place to stop anyone else suffering the same treatment, and whenever a customer's consumption constantly rises over a number of years, the company should visit the property and speak with the customer.
- In view of the company's failings, the customer wants the company to backdate the leakage allowance to the time his father's bills started to increase.

The company's response is that:

- The applicant complains on behalf of his late father, The Customer 2, formerly of the Property . His father occupied the Property from at least 2005 to 26 May 2021.
- The application is outside the scope of the Scheme as Rule 3.5 states that the Scheme cannot be used to adjudicate disputes regarding third-party complaints. The applicant is a third party; therefore the matter falls outside the scope of the Scheme.
- Furthermore, Rule 3.5 states that it is entirely beyond the scope of the WATRS Scheme to examine or review any issues relating to the fairness or appropriateness of its contract terms

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and/or commercial practices. Therefore, the WATRS has no power to instruct or compel it to reimburse the customer for water measured by the meter.

- In any event, the leak was on private pipework and therefore it was not responsible for it. It is responsible for the water main in the ground and normally the pipe from the main until it reaches the boundary of a customer's property. This part of the pipe is known as the communication pipe. Most properties have an underground stop tap at the boundary and the company's pipe ends at that stop tap. The company is responsible for the stop tap and keeping this in good condition. However, the rest of the pipe taking the water into the customer's property is known as the service pipe and it is the customer's/landowner's responsibility to keep this pipe work in good condition. Therefore, it is not responsible for, and is not required to assume responsibility for, the service pipe running from the property to the water main up to the stopcock, or any of the internal pipework.
- If a private leak is repaired within thirty days, it will consider a one-off, discretionary leakage allowance, but there is no legislation or legal obligation to provide an allowance for excess water consumed as a result of leakage.
- According to its records, no contact was made regarding this account between 2008 and 2020. On 24 November 2020, the applicant initially made contact and authorisation was given by The Customer 2 for the applicant to discuss his account. The applicant then raised concerns regarding high consumption.
- It put the account on hold and raised a job to carry out the necessary leak and flow tests in order to ascertain if there was a leak on the supply. On 25 November 2020, it attended the Property and advised that it would dig and investigate if there was a leak at the meter or on pipework for which it is responsible, but no leak was found. Following a further dig, still no leak was found.
- On 23 February 2021, it attended the Property and advised that any leak was on private pipework and therefore it was not responsible to repair it. However, the applicant then advised that The Customer 2 was vulnerable.
- On 21 March 2021, it received an email from the applicant advising that the leak had been repaired on 15 March 2021 at his own cost. The applicant requested a refund of the repair costs in the sum of £750.00 and as The Customer 2 may have been eligible for a free repair due to his personal circumstances, it agreed to refund the cost of the repair.
- In accordance with its Charges Scheme, once a leak is repaired, it will consider a one-off discretionary leakage allowance, however, in accordance with its Code of Practice, in order to qualify for a discretionary leakage allowance leaks should be repaired within thirty days once a leak has been confirmed.

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- The discretionary leakage allowance is calculated by using the average daily consumption and deducting this from the consumption recorded during the period in which the leak occurred. The allowance will be backdated for a maximum of 12 months up to the date the leak was repaired.
- It granted an allowance for the period from 15 November 2019 to 22 April 2021 in the sum of £2,411.71. It allocated the allowance to The Customer 2's account, leaving a credit balance of £1,375.93 once all outstanding invoices were cleared. The refund was refunded to the Applicant's bank account.
- The applicant wants the leakage allowance backdated further and believes that it had a duty of care to inform The Customer 2 when the increased consumption started.
- It denies that it had a legal obligation to inform The Customer 2 of the increased consumption. It has nearly seven million customers so it is not possible to monitor every customer's consumption, so customers are encouraged to monitor consumption themselves. In any event, payments and consumption fluctuate. As the payments were consistent, it was difficult to associate any problem with the account.
- It was not advised, prior to contact with the applicant in 2020, that The Customer 2 was vulnerable. Not all elderly customers are vulnerable and, therefore, it is not reasonable to say that it should have been aware that The Customer 2 was a vulnerable customer.
- It has reimbursed the applicant for the cost of the repair and granted a discretionary leakage allowance covering a period of more than twelve months; therefore the applicant has been compensated over and above what is required.
- In view of this, it denies that the applicant is entitled to any further discretionary leakage allowance.
- In any event, any claims arising more than six years prior to the WATRS application are statute barred pursuant to the Limitation Act 1980.

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 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. Having reviewed all the evidence provided by the parties, I do not accept that the claim is outside the scope of the WATRS as the evidence demonstrates that the customer gave his son authority to deal with this matter when it was raised with the company and I find that it would be unreasonable to view that authority as terminated due to the customer's death. Furthermore, any refund of charges would be dealt with during the administration of the customer's estate.
2. I do accept that Rule 3.5 of the WATRS Scheme Rules means that it is beyond the scope of the WATRS Scheme to examine or review any issues relating to the fairness or appropriateness of the company's contract terms and commercial practices. However, I do not find that this dispute relates to the fairness or appropriateness of the company's contract terms or commercial practices. Instead, I find that it concerns the company's compliance with its contractual obligations and policies when assessing the level of leakage allowance granted to the customer.
3. I accept that the Limitation Act 1980 means that the customer would not be entitled to losses incurred more than six years before the date of the application to this Scheme, however, the customer's claim includes losses incurred less than six years before the date of the application. Therefore, the claim is not time-barred in its entirety.
4. In view of the above, I find that I am able to adjudicate this dispute.
5. In order for the claim to succeed, the evidence must show that the company has failed to provide its service to the standard reasonably expected by the average customer by failing to backdate the leakage allowance to the date of the first high bill, or by breaching an obligation to inform the customer that he may have a leak when his consumption started to increase in 2012.

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6. However, having reviewed the evidence provided by the parties, I accept that the company is not obligated by any legal requirement or policy provision to monitor a customer's usage and inform them of possible leaks, and I accept that a customer is responsible for monitoring their own usage and contacting the company should a problem arise. I also accept that the company had no reason to consider the customer vulnerable before February 2021.
7. Having reviewed the company's Leakage Allowance Policy, I accept that the company has credited the customer's account with a discretionary leakage allowance for more than the maximum twelve-month period provided for under the policy. I have also considered the way the allowance has been calculated and, on the balance of probabilities, find that the amount of allowance provided is correct.
8. In view of the above, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer and, therefore, while I appreciate that the customer's son will be extremely disappointed by my decision, the claim to have the leakage allowance backdated to the time the customer's consumption first started to increase does not succeed.

Outcome

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 by 23 November 2021 to accept or reject this 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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K S Wilks

Katharine Wilks

Adjudicator

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