

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X620

Date of Final Decision: 18 November 2021

#### Party Details

Customer:

Company:

#### Complaint

The customer believes that he does not have to pay the company's charges because the advertisement for his apartment stated that the charges would be paid by the landlord. In July 2020, the customer contacted the company to complain about a foul smell coming from a sewer and the company has used the details he provided at this time to start billing him for Surface Water and Highway Drainage (SWHD). The customer service provided by the company has been poor and, in view of this, he wants a sincere and robust apology and £350.00 in compensation for distress and inconvenience.

#### Response

The customer's property is supplied with water through a common meter and the landlord pays for this, but the customer is responsible for paying the SWHD charges. The customer was billed after the company's Void Property Bureau found that he was living in the property. As such, the company has not failed to provide its service to the standard reasonably expected by the average person and denies responsibility to apologise and/or pay the customer compensation.

The company has not made an offer of settlement.

#### Findings

The Water Industry Act 1991 entitles the company to charge the customer for SWHD, and the evidence does not show that the company has failed to provide its service to the standard reasonably expected by the average person in any other way. Therefore, the customer's claim for compensation and an apology does not succeed.

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Outcome

The company does not need to take any further action.

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# ADJUDICATOR'S FINAL DECISION

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## Case Outline

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

- He believes that he does not have to pay water or wastewater charges because the advertisement for his rented flat stated that water bills were included in the rent. The block of flats is served by a bulk meter, so the landlord pays for all of the water and wastewater and then divides the cost amongst the residents of the flats.
- He contacted the company to complain about a foul smell coming from a sewer close to his living room window. The company attended and advised that it was the landlord's responsibility to clear the sewer of any debris. He contacted the company again on 11 September 2020 to make it aware of a spelling mistake on its website, which was corrected.
- On 25 November 2020, the company issued an 'Intention to Bill' letter advising that it had identified him as the occupant of the property through its vacant property tracing system and it was going to bill him for SWHD going forward. However, he believes that the company contacted him using the details he supplied when he complained about the odour from the drains and he has reported this to the Information Commissioner's Office.
- He called the company on 2 December 2020 to challenge this decision and explained that the charges are paid by his landlord. The company asked for his landlord's contact details but he was unable to supply them as he does not have any contact information for his landlord.
- He has gone through the company's complaints process but its decision to bill him remains unchanged.
- During the complaints process and before he made his complaint, the company provided poor service and the company's responses were late.
- In view of this, he wants the company to provide a sincere and robust apology and pay him £350.00 in compensation for distress and inconvenience.

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

- In accordance with Section 142 of the Water Industry Act 1991, it is permitted to charge for water and wastewater services provided to its customers. Under Section 143 it is permitted to

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make a Charges Scheme and under Section 144 the occupier of a property is responsible for paying the charges.

- In November 2020, it became aware that the customer occupied REDACTED. This property is supplied with water through a common meter, but the charge for the removal of SWHD is the responsibility of the occupier unless the landlord agrees to pay.
- The customer made contact when he received his first bill and advised that his landlord was responsible to pay it. It attempted to contact the customer's landlord on numerous occasions to confirm that they accepted responsibility for the charges, but it received no response. Therefore, it advised the customer that his landlord had not accepted responsibility and he would be billed.
- The customer advised CCW that the advertisement for his apartment explicitly stated there was no water charge. However, notes from the CCW phone call to the customer on 4 August state, "We also discussed how his lease appears to state tenants are liable for SWHD charges, however, he wasn't made aware of this. I said he should consider seeking professional advise (*sic*) as this is not something I can help with".
- The customer alleges that the level of customer service he has received has not fulfilled his expectations and he expects a full, sincere and robust apology. However, it has acted appropriately to each contact it has received from the customer:
- On 25 November 2020, it sent an 'Intention to Bill' letter to the property because it had been told that the customer occupied the property by its Void Property Bureau.
- On 2 December 2020, the customer telephoned to say that he was not liable for charges because his landlord paid the bills.
- On 11 December 2020, it opened an account in the customer's name as of 25 November 2020 and sent a bill to the customer. Further bills were sent on 1 March 2021 and it also sent reminders.
- On 23 December 2020, the customer sent a website feedback form to advise that he had paid his water charges to his landlord. Within 24 hours, it sent an email response to explain what the SWHD charge was for and advised the customer that his landlord should make contact if they wanted to accept responsibility for these charges, or, if a payment plan was needed, the customer should call to discuss this further.
- On 30 December 2020, the customer stated that he would not pay the charges and would seek advice from CCW. It responded unsuccessfully by telephone on 4 January 2021 and successfully on 7 January 2021 and said it would write to the customer's landlord to see if they would accept the charges. A letter was sent and it explained that it would wait two weeks before resuming any action.

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- On 27 January 2021, it emailed the customer to say that his landlord had not replied. It explained that, as such, the customer was liable for SWHD charges. It waited for a reply from the customer's landlord until 10 February 2021, but none was received.
- It has not failed in its duty to supply water and waste water services, and has raised correct charges for these services in line with its Charges Scheme. Under the circumstances, it cannot agree to pay £350.00 to the customer as the level of service has not fallen below the expected standard.
- It has followed all its policies, processes and legal and regulatory requirements while dealing with the issue the customer has raised and it does not believe that it has failed to provide its service to the standard to be reasonably expected.

### 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.

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 the evidence provided by the parties, I find that the customer's claim can only succeed if the evidence demonstrates on the balance of probabilities that the company is not entitled to charge the customer for SWHD and/or the company has failed to provide its service to the standard reasonably expected by the average person in some other way.

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2. The company refers me to sections 142, 143 and 144 of the Water Industry Act 1991 and states that as the customer's landlord has failed to accept responsibility for paying the SWHD charges, it is entitled to charge the customer, as the occupier of the property, for SWHD.
3. The customer believes that the advertisement for his property stated that the landlord would pay the water bills. No substantive evidence has been provided to support the customer's assertion but, in any event, I note from the evidence provided by CCW that the customer's tenancy agreement does not state that his rent is inclusive of SWHD charges.
4. On balance, having considered all of the evidence provided by the parties and sections 142, 143 and 144 of the Water Industry Act 1991, I accept that the company is entitled to charge the customer for SWHD. In view of this, I find the charges on the customer's account for SWHD correct and payable.
5. The customer states that the company misused information he provided during a complaint about a foul smelling sewer to bill him for SWHD. However, the evidence shows that the company made enquiries with credit reference agencies to establish whether or not the property was occupied so it could bill for its services, and it was a coincidence that this happened at around the same time as the customer made the complaint about the sewer. Therefore, I do not find any evidence to support the customer's claim that the company failed to meet the expected standards of service by misusing information he had provided for another purpose.
6. The customer also claims that the service he received from the company was poor and the company failed to respond in a timely manner to his questions. The evidence provided by CCW also shows that the customer complained that he has received correspondence from debt collection agencies. As the company is entitled to bill the customer for SWHD and the customer has not paid the bills, I find that the company is entitled to use the services of a debt collection agency and, having reviewed the evidence provided by the parties, I find no evidence of other service failings.
7. In view of the above, while I appreciate that the customer will be disappointed by my decision, the customer's claim for compensation and an apology cannot succeed.

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8. The customer has provided comments about the preliminary decision. As I considered most of the issues raised in these comments during my preliminary adjudication, I do not need to consider them again. However, the customer states that my preliminary decision did not address an issue he raised about being contacted by a debt collection service during the WATRS process. As this issue was brought to the attention of the WATRS after the customer submitted his application for adjudication and after the company submitted its response, it amounts to a new complaint and I am unable to consider it during my adjudication. This is because Rule 5.4.3 of the WATRS Scheme Rules states, "If the customer wishes to make any comments on the company's response, these must be submitted within 5 working days of receipt of the company's response. The customer cannot introduce new matters or evidence in their comments on the company's response; the adjudicator will disregard any such material if submitted." However, I note that when the customer submitted this comment on the WATRS discussion page, the WATRS case handler contacted the company about it and asked the company to take some action to prevent it happening again. That said, if the customer wishes to pursue this issue, he should raise it with the company directly.

#### **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 2 December 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.

*K S Wilks*

Katharine Wilks

#### **Adjudicator**

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