

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X671

Date of Final Decision: 6 December 2021

Party Details.

Customer: The Customer

Company: The Company

Complaint

The customer says the company told him to repair a leak on his pipework, failed to provide any advice and then refused to repair damage caused by the works which were unnecessary, given the leak was actually on the company's pipework. He claims for the company to repair his driveway and pay £3000 compensation for distress and inconvenience.

Response

The company says initial tests suggested the leak was on the customer's side. When the leak was found to be on its own pipework it refunded the customer the costs he incurred, paid a £100 credit for poor communication and offered £200 for distress and inconvenience. It refuses to repair the driveway as the customer's contractor should have investigated the location of the leak before carrying out any work. It denies the claim.

Findings

The evidence shows that the company has failed to provide its services to the standard to be reasonably expected.

Outcome

The company should reinstate the customer's driveway and pay him compensation in the sum of £250.

The customer must reply by 6 January 2022 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- The company instructed him to fix a leak on his pipework without providing any further guidance or advice.
- He instructed an approved contractor who then carried out works to replace a pipe, which involved digging up his driveway.
- It transpired that the leak was on the company's asset, at the meter box, and so this work was not necessary.
- He claims for the company to repair the "scarring" to his driveway and pay £3000 for time, stress, pressure and disruption.
- In comments on a preliminary decision the customer expressed he was satisfied with the outcome.

The company's response is that:

- Its policy for non-visible leaks is for the customer to investigate their private pipework first.
- Typically, a contractor would carry out a cut and cap at the boundary to confirm the location of the leak, before undertaking any pipework replacement.
- In March 2021 it noticed the customer's increased water consumption. Following tests it told the customer that the leak would most probably be in his private service pipe and that he would therefore need to arrange for a contractor to investigate and repair the leak.
- It gave the customer a list of approved contractors.
- It tried to contact the customer to check if the repair was complete but was unable to reach him on the number provided.
- In May 2021, it confirmed that the leak was in its pipework. This was only reported after the customer's contractor had excavated the customer's drive. It was not clear whether the leak on its service pipe was in fact caused by the contractor during this excavation.

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- It refunded the costs the customer paid to the contractor because the leak was in its pipework and not the customer's pipework.
- It refused to reinstate the customer's driveway as his contractor should have carried out a cut and cap to confirm the location of the leak before digging up the driveway to replace the pipework.
- It offered the customer £100 by way of a goodwill gesture in respect of his negative experience and the lack of proactive contact during his leakage investigations. It offered a further £200 to acknowledge the distress and inconvenience caused, which the customer declined.
- It does not believe that the customer has any residual loss which is yet to be compensated. To pay the customer a further £3,000 would put the customer in a position of "double recovery" for costs.
- It cannot be held liable for the damage and loss caused to the customer by the contractor whom the customer instructed privately and independent of any involvement from it.
- It denies the claim.
- In comments on a preliminary decision it said it was not responsible for the (standard of) work undertaken by the customer's contractor and therefore should not be responsible for re-doing work already completed by the contractor and paid for by it. Without accepting liability, it agreed to pay the customer £250 for any distress and inconvenience caused. This was in addition to the £2,196 already paid to the customer in compensation and refunded costs. It believed that any further remedies, including compensation, should be sought from the contractor based on the contractual and/or duty of care relationship between them and the customer in respect of the works carried out to investigate and repair the leak.

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

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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. The company had reason to believe the customer had a leak on his side of the pipework and, as set out in its policies, informed the customer that he would need to repair this. I find no failing by the company in this respect.
2. Given the leak was believed to be on the customer's side, I do not consider the company was obliged to offer any guidance or advice on the repair or that the customer should have reasonably expected this.
3. I note the company provided a list of approved contractors but it did not accept liability for any work carried out by them.
4. Following pipe replacement works by the customer's contractor there was still a leak and it was now identified as being on the company's side. Although the company suggests the contractor may have caused the leak, I am not satisfied the evidence shows this. I therefore consider it more likely than not that the leak was always on the company's side.
5. Where the company has asked a customer to carry out works unnecessarily, it is only fair that it return the customer to the position he would have been in, had it not done so. This would include reinstating his driveway.
6. The company refunded the customer the costs he incurred, given the leak was on its side. Yet, it refused to reinstate his driveway to its previous condition. I find it failed to provide its services to the standard to be reasonably expected in this regard.
7. If the company wanted to ensure customers or their contractors carried out a "cut and cap" before undertaking any works, then it should make this clear at the outset and also make clear

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any consequences of failing to do so. The company did not provide any such communication and so I do not consider it right for it to now seek to limit its liability on the basis that the works were not carried out in the way it felt was most appropriate.

8. I acknowledge the company's comments on my preliminary decision, however this does not affect my decision. This is because there is nothing to suggest the customer's contractor carried out work to a poor standard. Rather I consider it is more likely than not that a "scar" was left on the customer's driveway simply by virtue of the work undertaken. The customer's contractor was under no obligation to return the driveway to a condition such that there was no sign of any works undertaken. However, I find the company should return the customer to the position he would have been in, had it not asked him to repair his pipework. This includes restoring his driveway to its original condition.
9. In regards to the customer's claim for the company to repair his driveway, I direct that the company carry out the necessary works.
10. As to the claim for compensation, the customer has not justified his claim of £3000. I acknowledge he was under pressure to complete the repair in a limited time, that he was put to the inconvenience of arranging the works, and that he has had to pursue his complaint to WATRS. However, in the circumstances of the case, the failing found and taking into account the WATRS compensation guide, I find it fair and reasonable to direct the company to pay the customer compensation in the sum of £250 for distress and inconvenience.
11. Finally, as an adjudicator on the WATRS Scheme, I am only able to award a maximum of £10,000 in relation to any one matter. Therefore, I find that the company will only be required to pay up to a maximum of £9750 to reinstate the driveway; that is the £10,000 limit, less the £250 award directed above.

Outcome

The claim succeeds in part.

The company should reinstate the customer's driveway and pay him £250 for distress and inconvenience.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 6 January 2022 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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Justine Mensa-Bonsu LLB (Hons) PgDL (BVC)

Adjudicator

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