

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X736

Date of Decision: 25 January 2022

Complaint

The customer says that he was lied to by the company and its agents during the process of installation of a new connection.

He requests that the company apologise and pay unspecified compensation.

Response

The company denies that the customer was lied to and says that he was provided with accurate information on the costs and process of installation.

No offer of settlement has been made.

Findings

The company provided its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 22 February 2022 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X736

Date of Decision: 25 January 2022

Party Details

Customer:

Company:

Case Outline

The customer's complaint is that:

- He requested that the company upgrade his water supply by installing a pipe directly to the Property.
- He was quoted the cost of installation by digging a trench, but was told that the workers would examine on the day whether installation by moling was possible, which would be considerably cheaper.
- On the day of installation he was told that moling was not possible.
- A new pipe had been installed at a nearby property some years earlier by moling.
- One of the company's workers told him that the difference between the properties arose from a gas pipe veering to the right just after the Property, but he subsequently discovered that this was not true.
- He believes that the company should check whether moling is possible earlier in the process, rather than insisting that it only be done on the day of installation, as a customer is unlikely to say no to a trench on the day of installation.
- He requests that the company apologise and pay unspecified compensation.

The company's response is that:

- Moling is not always possible due to obstructions.
- The decision whether or not to install by moling must be made on the day of installation because conditions might change between an initial inspection and the day of installation.

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- The company must also approach the installation as requiring a trench so that applications can be made for traffic management and permits in case a trench is required.
- An initial examination was undertaken using utility drawings, but these drawings are not completely reliable and so an examination on the day of installation was also required.
- An inspection was undertaken on the day of installation and it was determined that moling was not possible due to the presence of other utility services.
- The company denies that the customer was lied to.
- With respect to the nearby property to which the customer refers, records are incomplete but show that at least some of the work required a trench.
- The customer had the right to cancel his request for a new connection at any point.

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. While the circumstances surrounding the customer's complaint relate to the installation of a new service and whether moling was possible, the customer's actual complaint does not concern the use of moling, but rather that he believes he was lied to by the company's agents during the process.

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2. The customer emphasises that the company refused to provide him with any information on the likelihood of moling, even though an examination of available utility maps would have suggested that moling was unlikely and that a relatively simple in-person check at the beginning of the process would have made clear that moling was not an option.
3. However, while I accept the customer's view that it would have been beneficial to him to have had certainty regarding the possibility of moling as early in the process as possible, given the significant price differences between moling and installation by trench, I do not find that the company's approach can be accurately described as misleading to the customer. The company has reasonably explained that while utility maps were examined, they can at times be misleading, and has also reasonably explained that an in-person examination of the possibility of moling could not be done before the day of installation given the possibility that conditions might change. Given this context, I find that the company acted appropriately by only quoting for installation by trench and avoiding estimating the likelihood that moling would be used.
4. The customer emphasises that if he had been told that moling was unlikely to be possible, he would have been in a better position to evaluate his options, rather than being left to rely upon the possibility of a cheaper installation. However, I find that given the uncertainties with which the company is faced in this context, providing any information to customers on the likelihood of moling would actually increase the likelihood that customers would feel misled. Moreover, this would be particularly problematic when the company had expressed a high likelihood that moling would be used given the information available, only to decide on the day of installation that moling was not possible – thereby leaving customers with a substantially higher bill than the company had led them to reasonably believe was likely. By contrast, the company's approach of only quoting for the more expensive option minimises the chance that customers will face unexpected costs, in a context in which significant uncertainty is unavoidable.
5. I also find that the company has provided satisfactory evidence that an inspection for the possibility of moling was undertaken on the day of inspection, in the form of photographs of the results of the inspection, and that its decision not to use moling was reasonable on the basis of that inspection.
6. Therefore, I find that the company did not mislead the customer in its description of the options available to him or in its choice on the date of inspection not to use moling.

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7. The customer also says that he was lied to by one of the company's agents, who told him that moling was not an option, despite having been used at a nearby property, because a gas pipe that prevented moling veered to the right just after the Property.
8. I note the customer's repeated reference to this statement since before commencing his WATRS application and I accept that the statement was indeed made. I also accept that it is not supported by the available evidence.
9. However, I do not find that this statement is sufficient to constitute a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person, as although I accept that the customer interpreted the statement as an assertion of fact, the nature of the statement is also consistent with the worker merely expressing a supposition – that is, that the worker was suggesting this as a possible explanation, rather than asserting it as true. I acknowledge that this would have been a careless statement to make, as it was not backed by evidence, but I also acknowledge that it had no direct impact on any decision made by the customer, as the company has satisfactorily established that there were adequate grounds for refusing to install the pipe through moling, and this would remain true whatever the reason for moling having been used at a nearby property.
10. Therefore, while I accept that the statement made by the company's worker was incorrect and carelessly made, I do not find that on its own it is sufficient to constitute a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person.
11. For the reasons given above, the customer's claim does not succeed.

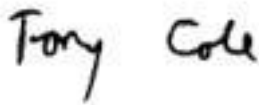
Outcome

The company does not need to take any further action.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 22 February 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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Tony Cole, FCI Arb

Adjudicator

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