

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X755

Date of Final Decision: 16 February 2022

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer and her young daughter were unable to use their toilet for five weeks due to a blockage on a private sewer. The customer feels that the company should have done more to help her, and its failure to find the rodding eye located in her garden caused a delay in the blockage being cleared. However, the company has refused to take responsibility for its failings and, in view of this, she would like the company to apologise and pay her compensation for the considerable distress and inconvenience it caused.

Response

The company is only responsible for maintaining and repairing its own assets. The blockage was on the customer's private pipework and, therefore, although it assisted the customer as much as possible, the company was not responsible for removing the blockage and is not responsible for the delay in the work being completed. In view of this, liability to pay compensation and apologise to the customer is denied.

The company has not made an offer of settlement.

Findings

The evidence shows that the blockage was on the customer's private pipework and, therefore, the company was not responsible for finding or clearing it, and the evidence does not show that the company was responsible for the delay in the works being completed. Therefore, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer, and the customer's claim for an apology and compensation 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:

- On 3 September 2021, she reported that she was having problems with her toilet to the company.
- On 6 September 2021, a plumber attended her property and advised that the issue was caused by a blockage on the external pipework and the pipework needed rodding.
- On 11 September 2021, the company attended and explained that the blockage was on her private pipework and it was not responsible for finding and removing it. When she asked the company to carry out a camera survey to locate the blockage, it refused.
- She completed an external dig and found a T junction and shared drains, but the company still refused to help and offered her no advice about what she needed to do to resolve the problem.
- The company said there was no rodding eye on her property on multiple occasions, and then a rodding eye was found in the back garden. If it had been found earlier, the problem could have been sorted out sooner.
- She does not dispute that the blockage was on a private sewer, but she feels that the company should have done more to help. The only toilet in her property was out of use for five weeks and this caused great upset to her and her young daughter, and had such a serious impact on her mental health that she was prescribed sleeping tablets.
- The company's staff agreed that the service provided fell below the expected standards and advised her to pursue a complaint, but the company has refused to take any responsibility for the delay in the blockage being found and cleared.
- She wants the company to pay compensation for the distress and inconvenience suffered, and for the medical treatment she has needed.
- She would also like the company to apologise for its failure to investigate the problem and for saying there was no rodding eye.

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The company's response is that:

- Under the relevant legal provisions, it is only responsible for clearing blockages on its own assets and it is not responsible for clearing blockages on privately owned sewers and drains.
- The sewers within the boundary of the customer's property are private and, therefore, the customer is responsible for their maintenance and repair.
- It received contact from the customer about a blockage on her private pipework and the customer said that a private contractor was trying to resolve it. It attended the property to make sure there was no problem with its assets and found that the toilet was not working but all the other facilities were operating as they should be. This confirmed that the blockage was on the customer's private pipework and, therefore, the customer was advised that she was responsible for clearing it.
- Once an issue is identified as a private matter, it is normally unable to carry out any further works. However, in order to assist the customer, it investigated further and found some tree roots in a section of shared sewer, so it cleared the roots away.
- It attended the property on several further occasions in order to help the customer, advised the customer in a timely manner, and responded to the customer's contacts and complaint in line with its expected level of service.
- The customer complains that it did not initially find the rodding eye in her garden, but as it was not responsible for resolving the blockage on the customer's private pipework, it was not responsible for locating the rodding eye.
- As the problem was not caused by a failure of its assets or any failure to provide its services to the standard to be reasonably expected, and it has not breached its statutory duties or been negligent in any way, liability to apologise and compensate the customer is denied.

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. The customer explains that she lives with her young daughter and the blockage on her private pipework meant that they were unable to use their toilet for five weeks, and this caused significant distress and inconvenience and resulted in the customer being prescribed sleeping tablets. The customer accepts that the company is not responsible for maintaining and repairing private pipework, but says that if the company had offered her appropriate advice and located the rodding eye in her garden when she first reported the problem, the blockage could have been cleared more quickly and the toilet would not have been unusable for so long.
2. The company states that it attended the customer's property and helped the customer as much as possible but, as the blockage was on the customer's private pipework, it was not responsible for finding or clearing the blockage, or locating the rodding eye.
3. Before I begin my adjudication, I must state that I fully accept that being without a toilet for so long would have caused considerable upset and distress to the customer, especially as she has a young child who, I have no doubt, would also have been very upset about the situation.
4. However, the customer's claim for compensation for distress and inconvenience can only succeed if the evidence shows on the balance of probabilities that the company failed to provide its service to the standard reasonably expected by the average customer by refusing to carry out work it was responsible for, or unreasonably delaying work it was responsible for, or unreasonably delaying work the customer was responsible for, and that the customer suffered distress and inconvenience as a result. Similarly, I can only

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direct the company to apologise to the company if the evidence demonstrates that the company failed to provide its service to the expected standard.

5. Having considered the evidence presented by the parties and the relevant statutory provisions, I accept that the company is not responsible for maintaining and repairing private pipework. The parties agree that the blockage was on the customer's private pipework, and the evidence confirms this, so I accept that the customer, not the company, was responsible for finding the blockage and clearing it.
6. In view of this, while I note that the company attended the customer's property on several occasions and gave her the contact details for a private sewer company, I do not find that the company was responsible for advising the customer on how the blockage should be cleared or finding the rodding eye. The customer states that she was told there was no rodding eye and the rodding eye was 'dead', however, while the job notes provided by the company show that the rodding eye was not located by the company until 1 October 2021, the job notes do not confirm that the company looked for the rodding eye before this and gave wrong or misleading advice. Further, I find no evidence to show that the work carried out by the customer was delayed by the company's actions in any way.
7. 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 person and, although I appreciate that the customer will be very disappointed by my decision, the customer's claim for an apology and compensation cannot 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 2 March 2022 to accept or reject this decision.

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- 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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