

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X797

Date of Final Decision: 21 March 2022

Party Details

Customers:

Company:

Complaint

The customer reported damp on her wall and asked the company to investigate, but it was unable to find the cause. However, after the customer got her MP involved, a collapsed drain was finally located under a pathway outside her house. The company repaired the drain and the customer's wall dried out, but the company will not accept that the collapsed drain caused the damp. The customer's insurance company repaired the internal damage, but the situation caused so much distress and inconvenience the customer would like the company to pay her £2,500.00 in compensation.

Response

After the customer reported damp in her property, the company investigated and found a minor crack on its sewer. However, the minor crack could not have caused the damp in the customer's property. The company believes that the damp was actually caused by a private downpipe that was not connected to the drains. Therefore, the company denies liability to pay the customer compensation for distress and inconvenience.

The company has not made an offer of settlement.

Findings

The evidence does not show on the balance of probabilities that the damp inside the customer's home was caused by a fault on the company's assets. 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 for compensation for distress and inconvenience 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:

- Approximately two years ago, she noticed a shadow on her wall that was damp to touch so she instructed a plumber to check for leaks. The plumber said that there were no pipes behind the damp wall and found no other leaks. She instructed other plumbers, but they could not find the cause of the damp either. The neighbour's side of the wall was wet too, so the neighbour's landlord, who is a plumber, also came to investigate. Again, no leaks were found.
- She contacted the company on numerous occasions as the damp spread to her living room, dining room and kitchen. The drains were checked with cameras on several occasions but the company said they were all working as they should be. The whole street was then checked and some repairs were made, but her walls were still getting wet, drying out, then getting wet again.
- She looked for other causes of the damp and asked the company to check the drainpipes. No problems were found but the drainpipes were moved anyway, just to be sure. However, the walls still got wet and even on the hottest day of the year, the walls were wet through.
- On 24 September 2020, after contacting her MP, the company put a camera down the drains again and found that the junction to her neighbour's kitchen drain had completely collapsed so water was running into the ground, a pipe was cracked, and another unused pipe had not been capped off.
- In October 2020, the company carried out a repair and her walls started to dry out. The company has said this is a coincidence as the damp in her property was not caused by the collapsed drain, but she does not accept this.
- Her insurance company paid for the walls to be re-plastered and the flooring and skirting boards to be replaced, but the downstairs had to be dried out with noisy industrial dehumidifiers and fans for months before the work could start, and the work took several weeks to complete. During this time, she had to live in her bedroom with her partner and her dogs.
- The situation has caused a huge amount of distress and inconvenience over a long period of time. The company has refused to take responsibility for anything except some service failings,

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for which it paid her £100.00 as a goodwill gesture. However, she would like the company to pay her £2,500.00 in compensation for distress and inconvenience.

The company's response is that:

- The customer first reported water coming into her property and causing damp in July 2020. The customer believed that the water was coming from a chamber near her property, so it attended to investigate.
- After conducting a CCTV survey, it found that the chamber was clear but there was a minor crack on the sewer pipe. However, the crack was not causing any service issues and it is confident that it could not have caused any damp in the customer's property. This is because the pipe is not located within the customer's property boundary, it runs parallel to the property in a walkway next to the neighbouring property, and any escape of water from the sewer would have affected the neighbouring property, not the customer's. In any event, if the property had an adequate damp proof course, it would have prevented any water from the cracked pipe affecting the property.
- The customer claims that as soon as the repairs were completed, the damp started to dry out. However, around the same time as the repairs were taking place, an issue was identified with an above ground rainwater downpipe on the customer's property that was not connected to any drains and allowed water to freely disperse in the same area as the damp. It had also attended a neighbouring property following a report of water coming from an external stop tap chamber.
- The customer relocated the downpipe and the water now drains away from her property and the affected wall. It is confident that this was the cause of the damp as the water had nowhere to go other than into the ground and the surrounding wall.
- The customer has not provided any evidence to show that the damp was caused by the failure of its network, and it found no defects which could be responsible for the damp at the customer's home. Therefore, it believes that the damp was most likely caused by the private downpipe for which the customer is responsible.
- It cannot be held responsible for the distress and inconvenience suffered by the customer as a result of the problem with her private downpipe.
- It has paid the customer £100.00 as a gesture of goodwill for the service she has received during its investigation, but denies further liability.

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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. The customer's position is that the company's leaking asset caused damp in her property and when it was repaired, the damp dried out but left considerable damage. The customer's insurance company repaired the damage, but this took several months and caused considerable inconvenience. The customer makes no claim for the damage caused by the leak, but claims compensation for the distress and inconvenience she has suffered as a result of the damage and the company's failure to take responsibility for it.
2. The company's position is that the minor crack on its sewer could not have caused the damp in the customer's property, and the damage was most likely caused by a downpipe that was discharging rainwater onto the ground near to the customer's wall. As the company is not responsible for the customer's private downpipe, it denies liability to compensate the customer for the distress and inconvenience she has suffered.
3. Having reviewed the evidence presented by the parties, I accept that there was a crack on the company's sewer and damp in the customer's property, and that the damp caused the customer to suffer considerable distress and inconvenience.

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4. However, the customer's claim for compensation for distress and inconvenience can only succeed if the evidence demonstrates that the company has failed to provide its services to the standard reasonably expected by the average person, and this failure caused damage to the customer's property and distress and inconvenience to the customer. Therefore, in order to find the company responsible for the distress and inconvenience suffered by the customer, the evidence must show on the balance of probabilities that the crack on the company's asset caused the damp in the customer's property.
5. The evidence shows that the customer reported rising damp on her wall on 7 July 2020, and a crack on the sewer was found on 24 September 2020 and repaired on 7 October 2020. However, the job notes provided by the company do not show that any major problems were found on the company's assets, or that the crack was discharging water into the ground near to the damaged wall, and suggest that the rising damp was caused by a problem with the property's damp course, and/or the downpipe discharging rainwater onto the ground near the damp wall, and/or the leaking stop tap on the neighbour's property. The evidence shows that the damp dried out at some point after the company's pipe was repaired, but the company's job notes state that during a telephone call on 28 October 2020, three weeks after the repair, the customer said that the wall was still getting damp when it rained. The customer confirms that the downpipe was moved in case it was causing the damp, but the evidence does not clearly show when this happened, or whether it was before or after the company repaired the cracked sewer.
6. Having considered the evidence, although I accept that the damp dried out after the sewer was repaired, I find that this was also after the relocation of the downpipe and after the neighbour's external stop tap had been repaired. In view of this, and because the customer reported that the damp got worse when it rained and there is no evidence to show that the cracked sewer was discharging water into the ground near to the wall, I am not persuaded on the balance of probabilities that the damp was caused by the fault on the company's pipework, rather than a problem with the downpipe, and/or a leaking stop tap, and/or an inadequate damp proof course.
7. As the evidence does not show on the balance of probabilities that the damp inside the customer's home was caused by water leaking from the company's cracked sewer, I do not find that the company has failed to provide its service to the standard reasonably expected by the average person. Therefore, while I understand that the customer will be disappointed by my

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decision, the customer's claim for compensation for the distress and inconvenience caused by the damp in her property cannot succeed.

8. Following the preliminary decision, the customer made some comments and has provided evidence to show that the situation was still on-going at the end of October 2021. The customer also states that the problem on the sewer was far more severe than a cracked pipe as the entire pipe had collapsed, and she questions why the company does not have evidence to show this. I have considered the customer's comments and understand her frustration, however, as this is an evidence-based process and the evidence does not show that the pipe was severely damaged and caused water to leak near to the customer's wall, my decision remains unchanged.

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 4 April 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.

K S Wilks

Katharine Wilks

Adjudicator

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