

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X814

Date of Decision: 11 April 2022

Complaint

The customer says that he was not properly notified of an outstanding charge and negative markings were unfairly placed on his credit file by the company.

He requests that the company apologise, remove the default from his credit file, and pay unspecified compensation.

Response

The company says that it made appropriate efforts to notify the customer of the outstanding charge and the negative markings placed on his credit file are accurate.

No offer of settlement has been made.

Findings

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

Outcome

The company needs to take the following further actions: It must pay the customer compensation of £200.00, must remove from the customer's credit file all negative markings relating to the charges outstanding after he moved from the Property, and must apologise to the customer for failing to respond to the provision of contact details at the conclusion of his tenancy in the Property.

The customer must reply by 9 May 2022 to accept or reject this decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X814

Date of Decision: 11 April 2022

Party Details

Customer: The Customer

Company: The Company

Case Outline

The customer's complaint is that:

- He moved from the Property to his current address on 7 September 2020.
- While he resided at the Property an account with the company was set up without his consent by the letting agent.
- He was unaware that he had an account with the company until 15 January 2022, when he received a letter from a debt collection company stating that he had an outstanding account with the company. No additional information was provided, or a warning that failure to pay would impact his credit score.
- He contacted the company and challenged the amount being charged, which was then reduced from £304.00 to £178.00.
- He was told that he would receive an updated bill, but he never received one.
- In early May he discovered a default on his credit file. He contacted the company and paid the outstanding amount.
- The company exhibited multiple failures in its billing.
- The situation has caused him considerable distress and inconvenience.
- He requests that the company apologise, remove the default from his credit file, and pay unspecified compensation.

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The company's response is that:

- The customer was responsible for water charges at the Property from 13 January 2020 to 13 September 2020.
- An account was opened in the customer's name in January 2020 on the basis of information provided by the letting agent for the Property.
- On 14 January 2020, the company wrote to the customer to confirm that an account had been opened in his name.
- The first bill was sent to the Property on 5 March 2021, in the amount of £125.25.
- It was paid by the customer on 1 April 2020.
- The letting agent of the Property contacted the company on 11 September 2020 to provide details of a new tenant at the Property.
- The customer had not provided a new address, and so the customer's final bill was sent to the Property.
- The bill was not paid, and an Intention to Default Notice was sent to the customer on 28 December 2020.
- The company allocated the customer's account to a debt collection company on 12 January 2021.
- On 20 January 2021, the customer completed a webform, acknowledging his responsibility for water charges at his current property.
- On this webform the customer stated that he had not previously been a customer of the company.
- As no payment was received, a Default was registered on 28 January 2021.
- The customer first made contact about the bill on 18 March 2021, after the Default had been registered.
- The customer paid the final bill on 11 May 2021.
- The final bill had been estimated and may have been higher than normal due to the impact of COVID-19 on water usage.
- When the customer challenged the bill, the company agreed to charge on the basis of the Assessed Measured Charge, as a gesture of goodwill.
- This resulted in a reduction of the bill from £304.74 to £178.14.
- The company acknowledges that the customer was originally billed from the wrong date, and so a further £46.27 has now been removed from the bill, reducing it to £131.87.
- A refund for the £46.27 has been processed and the company apologises for the error.

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The customer's comments on the company's response are that:

- The company's approach places unreasonable burdens on the customer and the company could operate its own billing systems more effectively.
- The company has acted unfairly in placing negative markings on his credit file as his failure to make payment resulted from an administrative error, not an unwillingness or inability to pay.
- When he contacted the company on 18 March 2021 he was unaware that a Default would be registered on his credit file.
- The letter from the debt collection company that has been produced by the company is not the letter he received.
- He was contacted by the debt collection company before the Default was placed on his credit file.
- He completed the webform four months after moving into his current property, the delay arising from the fact that he was unaware that he needed to directly inform the company that he had moved in.
- He stated on the webform that he was not a previous customer because he was at that time unaware that he had previously been a customer of the company.
- He is unhappy that he was originally billed on the basis of an estimate, as the company never requested a meter reading.
- He emphasises the further billing error made by the company, which required a refund of £46.27.
- He argues that leaving the Default on his credit file is disproportionate to any error he made.

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

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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 does not dispute that he is ultimately liable for the water charges incurred at the Property, but he says that he was not properly informed of this liability at the time or of the charges that were incurred. While he acknowledges that the bill issued by the company was not paid when issued, he says that this occurred only because he was unaware that it had been issued to him.
2. Even if it is accepted that the customer did not receive the final bill issued by the company, this occurred at least in part because the customer did not provide the company with an updated address to which any final bill should be issued. The customer's explanation for this failure is that he was unaware that he was responsible for water charges at the Property. The company, though, has produced a notice sent to the customer at the Property on 14 January 2020, addressing him by name and stating that "you will be billed" and that "An account was opened for you".
3. The company has also produced a bill sent to the customer on 5 March 2020, that the customer has not denied paying. However, in response to the Proposed Decision in this case, the customer has produced an email he sent to his landlord on 10 March 2020, that justifies a finding that the customer paid this bill on his landlord's behalf.
4. To be clear, this was a private arrangement, and under the Water Industry Act 1991 does not change the customer's own liability for that bill or for subsequent bills at the Property. However, alongside its Defence the company produced a notice sent to the company by the letting agent of the Property on 11 September 2020, reporting the customer moving out of the Property. Importantly, this email expressly notifies that company that "Any outstanding bills up to 15 September 2020 should be forwarded to the owners", with a name and address being provided (redacted for confidentiality).

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5. The company has emphasised that it attempted to contact the customer about outstanding charges at the Property by sending letters to the Property, and as noted in the original Proposed Decision this would ordinarily be an appropriate practice to adopt. However, in light of the specific notification provided to the company that outstanding bills should be sent to the owner of the Property, it constituted a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person not to respond to this request.
6. In its comments on the Second Proposed Decision in this case, the company emphasised that data protection considerations precluded it from accepting such a notification from a third party. However, it also acknowledged that such considerations would not have prevented it notifying the letting agent that the company could not accept such a request and so would not adhere to it, stating only that it is not “standard practice” to do so due to the large number of properties the company serves. However, the company acknowledges receiving the communication and acting upon it for its own purposes with respect to future billing at the Property, and by failing to notify the letting agent that bills would not be forwarded to the requested address, the company created a situation in which the customer and his landlord could both have justifiably believed that the requested address would be used given the company’s willingness to rely upon other parts of the communication.
7. Moreover, given the evidence provided by the customer that there was a private arrangement between the customer and the owner that the owner would pay for water charges at the Property, I find that it is more likely than not that if the company had sent notification of outstanding charges to the owner of the Property, as it had been requested to do, those charges would have been paid. In turn, if the company had notified the letting agent that the forwarding address provided would not be used, this information could then have been provided to the landlord and/or customer, which would again have allowed actions to be taken for the bill to be paid.
8. To reiterate, this does not change the customer’s liability for those charges, and so the customer has not been required to pay any charges for which he was not liable. If he has a claim for those charges under his private arrangement with his former landlord then that is a matter that must be raised with his former landlord, and does not affect his own liability to the company.

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9. Nonetheless, as I have found that if the company had followed the instructions it had received, or had notified the letting agent that it would not do so, then the outstanding charges at the Property would more likely than not have been paid, I find that the negative markings placed by the company on the customer's credit file are inaccurate. While it is true that the customer did not pay the charges in question, the negative markings on the customer's credit file will be reasonably understood by any reader as constituting a statement by the company that the customer did not pay those charges despite having been properly notified of them by the company. I have found that this is not true.
10. The customer also questions why the company was able to set up an account in his name without his permission, arguing that other companies are unable to do this. The company's right to charge customers for usage of water, however, is not based on contract but on statute (the Water Industry Act 1991), and so the customer's consent to be billed is not required.
11. The customer also challenges some elements of the collection action taken against him, including the limited detail initially provided to him by the debt collection company used by the company. However, I acknowledge that the company has produced a letter sent to the customer on 15 January 2021 that clearly notifies him that the company was attempting to contact him. Nonetheless, I accept that the 13 day period between this notice and the company's decision to register a default on 28 January 2021 was unreasonably short given the company's role, as discussed above, in the customer's failure to pay the charges outstanding from the Property.
12. Therefore, while I find that the customer has been billed correctly by the company, I nonetheless also find that it would be appropriate for the company to remove from the customer's credit file all negative markings relating to the charges outstanding after he moved from the Property, as those markings are inaccurate.
13. The customer has also requested an apology, and given the facts of this case I find that an apology would be appropriate.
14. Therefore, the company must apologise to the customer for failing to respond to the provision of contact details at the conclusion of his tenancy in the Property.

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15. The customer has also requested unspecified compensation, and in consultation with the CISAS Guide to Compensation for Inconvenience and Distress, I find that fair and appropriate compensation would consist of £200.00. This amount reflects both the substantial distress that I accept the customer has experienced, but also that the company's failing consisted in a single error that was accompanied by notice being provided to the Property, which would ordinarily have resulted in the customer nonetheless receiving notice of the charges for which he was liable given the standard use of mail forwarding.

16. Therefore, the company must pay the customer compensation of £200.00.

17. For the reasons given above, the company must pay the customer compensation of £200.00, must remove from the customer's credit file all negative markings relating to the charges outstanding after he moved from the Property, and must apologise to the customer for failing to respond to the provision of contact details at the conclusion of his tenancy in the Property.

Outcome

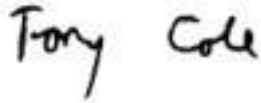
The company needs to take the following further actions: It must pay the customer compensation of £200.00, must remove from the customer's credit file all negative markings relating to the charges outstanding after he moved from the Property, and must apologise to the customer for failing to respond to the provision of contact details at the conclusion of his tenancy in the Property.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 9 May 2022 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.

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- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.
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Tony Cole, FCI Arb

Adjudicator

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