

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X819

Date of Decision: 24 April 2022

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer has a dispute with the company regarding a long delay by the company in informing her of the position of the wholesaler in respect of changing her tariff and possibly installing a meter. The customer contends that the discussions with the company have gone on for over three years. The customer claims that despite ongoing discussions with the company the dispute is unresolved and therefore she has brought the claim to the WATRS Scheme and asks that the company be directed to pay compensation and issue an apology.

Response

The company states that it has fulfilled its responsibilities to the customer as her water retailer, in that it has made several representations to the wholesaler in respect of her requests to have it approve a change in tariff and to investigate the fitting of a meter. The company records that the customer has not taken heed of its advice to disconnect the supply but has instead disputed her bills and now has a high amount outstanding on her account. The company did not make any formal offer of settlement to the customer.

Findings

I find that the evidence does not support the customer's claim. I am satisfied the company acted reasonably in its dealings with the customer, and that the company is not responsible for granting a tariff change nor for approving the installation of a meter. I am satisfied the company made reasonable efforts to have the wholesaler permit the application of an assessed charges tariff, but without success. I find that the evidence shows that the company has not failed to provide its services to a reasonable level and nor has failed to manage the customer's account to the level to be reasonably expected by the average person.

Outcome

The company does not need to take further action.

The customer must reply by 20 May 2022 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- She has experienced an ongoing dispute with the company concerning issues with bills and water supply services on her account. Despite the customer's recent communications with the company the dispute has not been settled.
- She purchased the property in question on 11 December 2017. Since that time the property was unoccupied until August 2019 when a caretaker moved into a one-bedroom lower ground floor flat.
- In December 2018 she contacted the company (then trading under a different name) to inform it that the property was unoccupied and requesting to be billed on an assessed charge basis. The customer asserts that she was advised that her request would be passed on to the wholesaler for its attention.
- She received no further response from either the company or the wholesaler, and so in February 2020 she contacted the company again and was given the same response as before – that her request would be passed to the wholesaler.
- During the February 2020 contact she also requested that the wholesaler be requested to confirm whether it was possible to install a meter at the property. The customer complains that she was not informed until February 2021 that shared supply prevented a meter being installed at her property.
- Her ongoing contacts with the company subsequently revealed that the wholesaler had responded to the company on both the questions of meter installation and the applicability of introducing an assessed charge, but the responses had not been passed on to her.
- She does not accept that the wholesaler discovered it could not install a meter following two separate site visits in January and February 2021 because she did not receive any advice that such inspections were to take place. The customer contends that the wholesaler was always aware of the shared supply, but this information was not passed to her for a period of more than two years.

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- The company misled her by not promptly passing on the responses from the wholesaler.
- The charges levied on her are excessive and extortionate considering that the only water usage has been through the single occupant ground floor flat.
- She believes she was deliberately passed back and fore between the company and the wholesaler in a deliberate attempt to delay answering her complaints.
- Continuing to be dissatisfied with the response of the company she has, on 07 March 2022, referred the matter to the WATRS Scheme where she requests that (i) the company be directed to pay compensation for distress and inconvenience and issue an apology, and (ii) the wholesaler be directed to undertake a site inspection and consult on the options open to her, and re-issue all invoices based on an assessed charge tariff only for the one-bedroom flat.

The company's response is that:

- It provided its response to the claim in its submission dated 18 March 2022.
- It acknowledges that the customer contacted it in October 2018 to advise that she had taken up occupation of the property as from December 2017.
- It acknowledges that the customer contacted it on 19 November 2018 to discuss two bills received for the period December 2017 to 31 March 2019. The company says it explained to the customer that she was being charged a Rateable Value tariff as the property was unmetered and it asserts it advised the customer to disconnect the water supply if the property was unoccupied. The company refutes any suggestion that it informed the customer a meter could not be fitted.
- It confirms that in December 2018 the customer's concerns were passed to the wholesaler who replied with the advice that the property's water supply should be disconnected. The company says its records do not show if the response was passed to the customer.
- It acknowledges that the customer contacted it again February 2020 to enquire about bills and she was advised that her current outstanding balance was £12,985.19.
- Following further contacts from the customer in April 2020 it sent to the wholesaler a request for it to approve applying an assessed charge tariff to the customer's account. The company says the wholesaler submitted a detailed response on 02 June 2020 declining to approve assessed charges and recommending that the customer apply for a meter.

- It submitted a meter application to the wholesaler, but a necessary site inspection was delayed because of Covid restrictions and it confirms that the survey did not take place until 04 February 2021.
- The wholesaler confirmed that its survey identified that the property would need to have a new separate supply installed before metering could take place.
- On 12 August 2021 the wholesaler carried out a second investigation and confirmed that the property had two separate supply pipes, and identified that one was a shared supply but the survey of the second pipe was inconclusive.
- It has explained its role as the retailer and advised the customer that it is a separate business to the wholesaler.
- It notes that the customer has a significantly high outstanding bill, and it believes this is because she refused to act on the advice given and chose instead to continue to dispute the charges.
- In summary, it believes it has fulfilled its role as the retailer inasmuch as it has made several representations to the wholesaler on behalf of the customer. The company also believes that it is not obliged to provide any of the remedies sought by the customer.

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 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.

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How was this decision reached?

1. The dispute relates to the customer's dissatisfaction that the company has failed to liaise fully with the wholesaler in respect of the charging tariff applied to her account and reasons for not installing a meter. The company contends that it has made numerous attempts to have the wholesaler consider an assessed charges tariff and the installation of a meter.
2. I note that the WATRS adjudication scheme is an evidence-based process, and that for the customer's claim to be successful, the evidence should show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I am aware that both the water retailer and water wholesaler are referred to in the evidential documents submitted to me. The retailer is The Company and the wholesaler is The Company 2. In this WATRS adjudication decision, The Company is defined as the "company".
4. I further find that it is useful at this point to set out the different responsibilities of retailers and wholesalers in respect of business customers. Simplistically, the wholesaler is responsible for the provision and maintenance of the water supply network and the retailer handles account management, billing, customer service etc. The wholesaler bills the retailer in bulk for the water consumed by its customers with the retailer then billing the individual customer.
5. Following the opening of the business water market on 01 April 2017 the wholesaler is permitted to set the tariffs for water delivery and maintenance of the water supply network. This also means that the wholesaler sets out its other procedures such as bill adjustments, leak allowances, refunds, etc.
6. The retailer does not set tariffs nor grant rebates or allowances, and is obliged in its customer facing role to manage administrative dealings such as billing, meter reading, and providing customer services.
7. From the evidence provided to me I am aware that the property of the customer is classified as a business and therefore she is a customer of the company and not the wholesaler. The customer receives her water supply from the wholesaler, but it is the company that issues a bill to the customer.
8. I can see that the customer has identified four remedies that she seeks from her referral to the WATRS Scheme.
9. I take note that two of the remedies sought apply to the wholesaler. As I state above, the wholesaler is not the company in this referral and as such is outside the jurisdiction of the Scheme.

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10. Thus, I shall confine my findings to the two remedies sought from the company.
11. I take note that the customer has not submitted any pertinent evidence in support of her claim.
12. The customer requests to have the company be directed to pay her an unspecified amount of compensation for distress and inconvenience.
13. The customer has supplied a detailed chronological narrative of her complaint, but in addition to it not being supported by evidence, I also find that she has throughout her description of events conflated the activities of the company and wholesaler.
14. As a result, I am unable to understand what actions of the company she believes have led to her experiencing distress and/or inconvenience.
15. Thus, I find that the evidence does not support that any act or omission on the part of the company has contributed to any distress or inconvenience that may have been experienced by the customer. It thus follows that I find compensation is not appropriate.
16. The customer, in her application to the WATRS Scheme, has also requested that she receive an apology from both the company and wholesaler. Again, I find that the customer has not separated the actions of the two entities and thus, as before, I find that the evidence does not support that an apology is applicable.
17. My conclusion on the main issues is that the company has not failed to provide its services to the standard to be reasonably expected by the average person.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 13 April 2022.
- The company has, also on 13 April 2022, acknowledged receipt of the Preliminary Decision.
- The company confirmed that it accepted the findings set down in the Preliminary Decision.
- I am thus satisfied that the facts upon which the Preliminary Decision was based remain unchanged.
- Having read the response of the company I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

The company does not need to take 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 20 May 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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Peter R Sansom
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Member, London Court of International Arbitration.
Member, CI Arb Business Arbitration Panel.
Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
Member, CEDR Adjudication Panel.

Adjudicator

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