

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X874

Date of Final Decision: 9 April 2022

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer says her property suffered sewer flooding and an unpleasant smell due to faults on the company's pipework yet it has refused to compensate her losses. Further, it was poor in its communications. She claims for the company to pay compensation in the total sum of £4125.00 comprising of: £900.00 for loss of rent; £600.00 for council tax payments and; £2625.00 to cover mortgage payments.

Response

The company says it has no liability for sewer flooding and the main cause of the problems experienced were due to faults on the customer's private pipework. It previously offered £250.00 as a goodwill gesture for poor communication. It denies the claim.

Findings

The evidence shows the company failed to provide its services to the standard to be reasonably expected in respect of its communications with the customer.

Outcome

The company should pay the customer compensation in the sum of £250.00 for distress and inconvenience.

The customer must reply by 11 May 2022 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- Her property suffered from repeated sewer flooding causing a bad smell which affected the tenants renting it.
- In June 2020 the company told her the issue was caused by her private pipework and it had no responsibility. From June onwards she agreed to deduct £100.00 per month from rental payments due to the smell. She could provide bank statements to evidence this loss if needed.
- In July 2020 her insurance company identified the issue was with the company's pipework and so it would not pay her claim.
- In September 2020 the company accepted responsibility.
- The tenants left in March 2021 due to the smell and she contacted the company regarding the ongoing issue and money lost. The company said it would review monies lost after resolving the issue.
- In July 2021 she further complained about the ongoing health risk. The company did not respond. It later promised a GSS payment for this failing but then did not make payment
- In September 2021 she contacted the company again. It refused liability and said she should contact her insurers. It also said repair work would not start until 25 October 2021.
- She moved back into the property in September 2021 as she was unable to rent it due to the ongoing issues.
- She claims compensation in the total sum of £4125.00 comprising of: £900.00 for loss of rent from June 2021 to February 2021; £600.00 for council tax payments April 2021 to August 2021 and; £2625.00 to cover mortgage payments from March 2021 to August 2021.
- In comments on a preliminary decision the customer disputed the company's response. She referred to a report produced by her Insurer's which found an issue with the company's own pipework. She therefore asserts the main cause of the problems were not her own pipework. Further, the company previously accepted full responsibility. She also provided emails from her

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tenants referring to the smell and bank statements to show she reduced her tenants' rental payments.

The company's response is that:

- Following the customer's reports of internal flooding it investigated and found issues on the customer's private pipework, therefore deeming it her responsibility. It has provided work records to support this.
- After the customer's insurance company said the issue was with its own pipework it investigated again in September 2020 and found damage to its own pipework. Its work records report that the customer's pipework also needed repair.
- It has to prioritise works based on the impact and number of people affected. There was not a specific timescale within which to complete the repair to the customer's sewer.
- It further investigated in June 2021. On this visit the cellar was dry, with no odour and no evidence of internal flooding. It has provided photos in support. At the time of this visit there was no blockage on the public line so nothing to cause an odour. It told the customer that although there was a major displaced joint, it did not believe this to be severe enough to cause any operational issues. The private pipework had multiple minor defects close to the property, which would have a larger operational impact.
- It decided to carry out the works on a proactive basis to prevent further issues. It completed the works on 25 October 2021.
- It gave the customer a GSS payment as it did not provide a substantive response to her complaint of July 2021. This was sent by cheque in January 2022.
- It is not liable for any damages or losses incurred by sewer flooding. This is supported by the Water Industry Act 1991. It is confident any operational issues were caused by the defects on the private line and it carried out a repair on the public line as a preventative measure. The flooding was also reported during heavy rainfall and the customer had also explained to its technician that the flooding mainly happened in heavy rainfall. It has no control over exceptional wet weather events, wear and tear of the sewer and issues on a private line.
- It offered the customer a contribution towards her Insurance Excess as a goodwill gesture. This was to acknowledge the length of time taken to resolve the issue and the lack of communication throughout the 16 months the issue was present. It was also offered as a gesture towards her insurance excess to claim for the loss of earnings. At the time, no amount was mentioned, but when the case was referred to the Consumer Council for Water it explained this would be a maximum of £250.00.

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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 company investigated initial reports of sewer flooding and had reason to believe the issue arose due to defects on the customer's private pipework. Given the company's work records support this, I do not find the company failed to provide its service to standard to be reasonably expected in this regard.
2. In September 2020 the company accepted there was an issue on its own pipework. However, it has also provided evidence that defects remained on the customer's private pipework.
3. I accept water companies are generally not liable for sewer flooding unless it arises due to their negligence. I cannot make findings on negligence. However, there is also no evidence to show defects arose with the company's sewer system due to its failure to properly maintain the sewer.

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There is no evidence that shows the company failed to provide its services to standard to be reasonably expected in this regard.

4. As to the time taken by the company to carry out repairs, I acknowledge the company has to make funding decisions based on impact and need. I also acknowledge the customer says the property was affected by a smell whereas the company found in June 2021 there was no smell. However, I must also take into account the evidence that there were faults on the customer's own pipework and that any flooding and/or a smell may have arisen even if the company had repaired its own pipework sooner. Taking these factors into account I do not consider the company was at fault for not acting sooner. The evidence does not show it failed to provide its services to standard to be reasonably expected in this regard.
5. In comments on the preliminary decision the customer provided evidence to support that the company's pipework was the sole cause of issues. Further, that her tenants also reported a smell arising whenever it rained. However this does not affect my findings above. This is because there is conflicting evidence as to where responsibility lies, meaning I cannot make a finding even on the balance of probabilities that defects on the customer's pipework had no bearing. Further, because the company was otherwise entitled to take a business decision on when to carry out the works based on its views of impact and need, as it did.
6. The company accepts it did not keep the customer updated and it delayed making a GSS payment. I therefore find the company failed to provide its customer services to standard to be reasonably expected. I am satisfied the customer suffered distress and inconvenience as a result. And, although the customer has not claimed a payment for such, I can consider any suitable remedy in line with the WATRS rules. Taking into account the company's previous offer and the WATRS compensation guide, I find it fair and reasonable to direct that the company to pay the customer compensation in the sum of £250.00 for distress and inconvenience.

Outcome

The company should pay the customer compensation in the sum of £250.00 for distress and inconvenience.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 11 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.



J Mensa-Bonsu LLB (Hons) PgDL (BVC)
Adjudicator

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