

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X944

Date of Decision: 16 June 2022

Party Details

Customer:

Company:

Complaint

The customer has a dispute with the company regarding the charges it has raised on an unoccupied property that she owns. The customer says that the property has been unoccupied for many years, but she keeps the water supply connected for the water heating system and for operatives undertaking remedial works. The customer believes the charges are too high and has proposed an alternative system of calculation that the company rejected. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore she has brought the claim to the WATRS Scheme and asks that the company be directed to remove all outstanding bills on her account, recalculate the bill raised for the period between February 2021 and February 2022, charge only a standing charge going forward, and pay her £2,500.00 in compensation.

Response

The company states that the property has been unoccupied since 2014 but it only commenced to levy the customer a "Benefit of Supply" charge as from February 2022. The charges are based on Rateable Value [RV] because the property does not have a meter installed. The company has advised the customer to either have a meter installed or to disconnect the supply as it cannot reduce the charges while she remains on a RV tariff. The company did not make any formal offer of settlement to the customer, and declines to waive bills, amend charges, or pay compensation.

Findings

I find that the evidence does not support the customer's claim. I am satisfied that the company has established its right to charge a RV tariff on an unoccupied property. It seems to me that the evidence supports the company is charging the customer in compliance with the Water Industry Act and its own approved Charges Scheme. I find that the evidence shows that the company has provided its services to a reasonable level and has managed 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 14 July 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 the company's charging policy in respect of an unoccupied property. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- She owns two separate properties, one she resides in and one she lets out. Both properties are unmetered.
- The property she resides in is considerably bigger than the property she rents out but the charges at her residence are much lower than the rental property.
- She has owned the rental property for approximately twenty years but notes that it has been unoccupied for many years.
- She only became aware in August 2020 that the company intended to charge her for services provided to the rental property and thus she contacted it in September 2020 to question its intentions. The customer says the company advised her that no charges would be raised.
- Despite its assurance over charging, the company billed her in March 2021. The customer says that upon complaining again to the company she was advised that under its "Benefit of Supply" policy in respect of unoccupied properties she would be charged even if the property was not occupied.
- The company told her that her only option to prevent charging would be to have the supply to the property disconnected.
- She declined to disconnect the supply because she was concerned that lack of water would negatively impact the hot-water boiler at the property. The customer says she informed the company of her reservations, but it declined to give her any advice about the effects on the water heater.

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- She informed the company that she would seek out alternative specialist advice and she says that it agreed not to disconnect the supply until such time she advised it of the advice received.
- She proposed an alternative charging method to the company that she believed was more equitable, but the company declined to consider it.
- Believing the company had not properly addressed her concerns she, on 15 December 2021, escalated her complaint to CCWater who took up the dispute with the company on her behalf. The records show that CCWater contacted the company and has been involved in the dispute since.
- Records show that on 20 January 2022 CCWater contacted the company requesting updated information and details of the customer service provided.
- The company responded to CCWater by its communication dated 02 February 2022 answering in detail all its requests for information and clarification and confirmed that it was not able to reduce bills based on Rateable Value tariffs, and that it would recommend the customer fitting a meter at the property so that she only pays for actual consumption.
- CCWater advised her on 09 March 2022 that it believed the company had issued its final position on the dispute and therefore it concluded that it could not take any further measures to have the company change its position and was thus closing her case.
- Continuing to be dissatisfied with the response of the company she has, on 14 April 2022, referred the matter to the WATRS Scheme where she requests that the company be directed to (i) remove all bills from her account; (ii) confirm the charges owed for the period February 2021 to February 2022 should be in the sum of £87.12; and (iii) pay compensation in the amount of £2,500.00.

The company's response is that:

- It provided its response to the claim in its submission dated 11 May 2022.
- It confirms that the customer's property was classified as unoccupied between 30 August 2014 and 30 June 2020.
- In July 2020 it sent the customer an "Intention to Bill" letter and that in September 2020 the customer contacted it to dispute the charges. The company confirms that it erroneously closed the customer's account.
- In February 2021 it again sent out an "Intention to Bill" letter and on 03 March 2021 issued a bill for the period between February 2021 and February 2022.

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- The customer did not settle the bill within the stipulated time scale and so on 15 August 2021 it issued a default notice.
- On 04 November 2021 the customer contacted it and stated she did not believe she was liable for the charges as the property was unoccupied. The company says that it explained to the customer its “Benefit of Supply” policy for unoccupied properties, and also recommended that she either fit a meter or have the supply disconnected.
- It acknowledges the customer was concerned about the impact on the water heating system if the supply was disconnected but it confirmed to her on 15 December 2021 that it was unable to give advice on heating systems. The company says it confirmed to the customer that it would continue to monitor her account whilst she obtained specialist advice about any possible effects on the water heater if supply was disconnected.
- It confirms being contacted by CCWater on behalf of the customer and notes that it has responded with full details as requested. The company says it stated that it can only charge a domestic customer a Rateable Value (RV) tariff or a measured tariff, and that it has offered to install a meter at the property free-of-charge. The company says the customer has refused to have a meter installed or to disconnect the supply and thus it charges her on a RV tariff as she uses water for running her boiler and for renovation works.
- In summary, it believes it has not failed to provide its services to a standard to be reasonably expected, and thus there are no grounds to amend the charges raised or to pay compensation to the customer.

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

- On 23 May 2022, the customer submitted detailed comments on the company’s Response paper. I shall not repeat word for word the customer’s comments and in accordance with Rule 5.4.3 of the Rules of the WATRS Scheme I shall disregard any new matters or evidence introduced.

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.

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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.

How was this decision reached?

1. The dispute relates to the customer's dissatisfaction that the company has issued charges for providing services to a property that has been unoccupied for many years. The company contends that it has levied charges correctly and in compliance with its approved Charges Scheme.
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 accept from the evidence submitted by the company that it has established its authority to render charges to the customer for the water services supplied to her property.
4. I can see that the parties agree that the property in question has been unoccupied for a number of years, and the company states that its records show it being empty as from 30 August 2014.
5. The evidence shows that a search of the Land Registry sometime around February 2020 identified the customer as the owner of the property. Subsequently, an "Empty Property Notification" was issued by the company followed by an "Intention to Bill" letter on 01 July 2020.
6. I also note that the customer contacted the company on 02 September 2020 to dispute the charges.
7. The customer contends that the property that she resides at is larger than the rental property, but its water charges are considerably lower. I am not persuaded that this is a valid position, with many variables coming into play, not least the fact that the RV's of the properties are set by a third party according to its own criteria. The company's charges are based on the RV, over which it has no control.

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8. I can see that the company has established under Section 144 of the Water Industry Act 1991, that the owner of an empty property is regarded as the occupier of said property, and thus responsible for payment of water service charges.
9. I am, therefore, satisfied that the customer was rightly regarded as the person responsible for the payment of water charges at her rental property.
10. I am aware that the customer has submitted a long and detailed narrative of her case, and provided documentation in support of her position. I am satisfied from my reading of the customer's submissions that she has not substantiated why she should be relieved of her obligation to pay charges due to the company and why the company should waive these charges. I shall not direct the company to waive the charges as she requests.
11. The customer has also queried the basis of the charges applied by the company, and questions the company's "Benefit of Supply" procedure. However, I take note of the entry in the company's Household Charges Scheme that states :-

12.3 Vacant premises

Charges for vacant premises

If premises without a water meter are vacant and no water is being used then no charges are payable. If a water supply is needed for any purpose, for example renovation or central heating, charges will apply. If you do not need a water supply, we can arrange for the supply to be temporarily disconnected.

If premises with a water meter are vacant and no water is being used, we will not charge for water services. Where the water meter records that water has been used, the owner is liable for the charges.

12. The customer, in her application to the WATRS Scheme, has confirmed that water was being used by workers at the property and her heating system was in use. Thus, I am satisfied that the company correctly identified that water was being consumed and was thus eligible to charge for it.
13. Similarly, as the property does not have a meter installed, I am also satisfied that the company is correct to charge according to a RV tariff. This is a fixed tariff irrespective of actual consumption. I can see that the company has explained that its RV tariff allows it to charge for a full year to be paid in a single payment or customers may set up a monthly payment plan. I also see that the company has advised the customer of the availability to set up such a plan.
14. I also take note that the customer proposed a payment plan of her own that was not accepted by the company. My reading of the proposal suggests it relies on assumptions and I am not persuaded that the company is required to accept such assumptions and as such I shall not

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direct the company to amend the charges raised for the period February 2021 to February 2022 nor to permit a monthly standing charge for when the property is unoccupied.

15. The final limb of the customer's request for remedy is to have the company directed to pay her the sum of £2,500.00 in compensation for inconvenience and distress.
16. I can see from my reading of the customer's case narrative that she has explained in great detail the history of her exchanges with the company over the course of the dispute. I am sympathetic to the position of the customer and can identify from her writings that she was often unhappy with the lack of progress being made and the stated position of the company.
17. However, I find that the evidence establishes that the company has acted in compliance with the requirements of both the Water Industry Act and its Scheme of Charges that is approved by OFWAT. The evidence submitted by the customer has not shown that the company acted outside the required procedures.
18. I do not accept that the customer's unhappiness with the company's position means that the company has in any way erred.
19. I am not persuaded that the evidence supports that any act or omission on the part of the company has directly contributed to any inconvenience and distress that the customer may have experienced. I thus find that compensation is not appropriate.
20. My conclusion on the main issues is that the company has provided its services to the standard to be reasonably expected by the average person. Similarly, I do not find that the evidence confirms that the customer has suffered any financial loss because of any incorrect actions of the company.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 31 May 2022.
- The customer has, on 14 June 2022, submitted detailed comments on the Preliminary Decision.
- The customer states that she does not agree with the adjudicator's findings as set down in the Preliminary Decision.
- The customer states that she believes the adjudicator colluded with the company when making his decision. This is expressly denied, and the customer is put to strict proof to support her allegations with evidence.
- I am aware that the customer's interpretation of evidence is different to mine but that does not mean that my understanding of the facts is incorrect.

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- Having studied the comments of the customer I am satisfied that the customer is reiterating her previous position and has not raised any new issues. Thus, I am satisfied that the facts upon which the Preliminary Decision was based remain unchanged.
- Having read the response of the customer I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

The company does not need to take further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 14 July 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.



Peter R Sansom
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Member, CEDR Arbitration Panel.
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Adjudicator

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