

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X950

Date of Final Decision: 11 June 2022

Party Details

Customer:

Company:

Complaint

The customer says the company discharged sewage into the sea resulting in his dog contracting an infection and dying, following a swim in the sea. He wants the company to provide an apology and reimburse him £6000.00 for vet bills.

Response

The company says the customer did not provide any evidence to show the dog's infection was linked to toxins in the seawater. It therefore denies the claim.

Findings

The evidence shows the company failed to provide its services to the standard to be reasonably expected. However, the evidence does not show the customer has suffered the loss claimed.

Outcome

The company does not need to take any further action.

The customer must reply by 11 July 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 FINAL DECISION

Adjudication Reference: WAT/X950

Date of Final Decision: 11 June 2022

Case Outline

The customer's complaint is that:

- His dog died after swimming in sea water polluted by wastewater discharged by the company.
- The company paid £500.00 as a goodwill gesture which he considers an admission of liability.
- He wants the company to apologise for polluting the sea and causing his dog's death and pay him £6000.00 to reimburse his vets bills.
- In comments on the company's response the customer says the company had been fined for dumping raw sewage in the sea and many animals have become ill as a result. He did not ask for a toxicology report at the time as this was the last thing he was thinking of.
- In comments on a preliminary decision the customer repeated that the company's payment was an admission of guilt. He said he gave the company a letter from his vet which showed his dog aspirated polluted sea water into his lungs. And that they were in debt due to the vet fees.

The company's response is that:

- The customer contacted it to advise his dog had died following an illness which he believed it contracted due to raw sewage having been discharged into the sea. He wanted the company to cover the vet's bills.
- It asked the customer to evidence the cause of death so it could consider his claim. While the evidence provided showed the dog died of pneumonia it could not link this to the bathing water quality or prove that it was as a result of toxins in the water.
- It told the customer it would review its decision if he could obtain a toxicology report. And while it did not accept liability, it offered a payment of £500.00 as a gesture of goodwill.
- There is no evidence it is responsible for the loss of the customer's dog and it denies the claim.

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.

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. Under WATRS rule 3.5 I cannot adjudicate on matters that have been subject to court action or complaints which have been investigated by the Environment Agency. I acknowledge that the Environment Agency ("EA") has previously taken court action against the company for unlawfully releasing wastewater into the sea. Therefore, insofar as the customer seeks a personal apology from the company for it polluting the seas, I find that it would be a matter for the courts to decide on the appropriate remedies on any upheld action. I am therefore unable to make any finding or direct any remedy in this respect.
2. Insofar as the customer's claim relates to the loss of his dog, there is nothing to suggest this has been the subject of court action or an EA complaint investigation and so I will adjudicate on this.
3. I have considered the customer's submissions that his dog swam in an area where the company discharged wastewater and I have also noted the company has not denied that it discharged wastewater into the sea at that location; this is not the basis of its defence. I am therefore satisfied on the balance of probabilities that the evidence shows the company failed to provide

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.

its services to the standard to be reasonably expected, in that it discharged wastewater into the sea.

4. While I have found a failing by the company I cannot consider a remedy unless the evidence shows the customer has suffered some loss or disadvantage as a direct result of that failing. It is clear the customer suffered the loss of his dog following a bacterial infection. I also accept the customer's submissions that this arose after his dog had been swimming in the sea. However, there is a lack of evidence to show the dog was infected due to bacteria in the sea water or that any such bacteria could be directly attributed to the company's discharge of wastewater. Further, the company has pointed to evidence to show the dog may have suffered the same infection by inhaling unpolluted sea water. In considering the evidence available I cannot say, even on balance, that the company's failing resulted in the illness and death of the customer's dog. I therefore find the customer's claim for an apology for his dog's death and compensation to cover the cost of vet's bills, is unable to succeed.
5. I appreciate the customer will be disappointed with this outcome. And, I can understand why he would not have thought to gather evidence, such as a toxicology report, at the time. However, I must reach an objective decision on the evidence available.
6. I have considered the customer's comments on my preliminary decision however my decision remains the same. That the company made a payment to the customer as a goodwill gesture is not an admission of guilt. Rather the very nature of a goodwill gesture is that it is made as a sign of goodwill, not because the company is obliged to do so. I acknowledge the customer gave the company correspondence from his vet as referred in the CCWater documents. However, it appears the vet only said the polluted sea water could have caused the symptoms. This does not mean it was the cause or that this was a direct result of the company's failing.

Outcome

The company does not need to take any further action.

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.

What happens next?

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



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

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.