

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X052

Date of Decision: 24 August 2022

Complaint

The customer says that she has been billed incorrectly and has experienced poor customer service.

Response

The company says that the customer has been billed correctly based on the information available to it. The customer has already received appropriate compensation for the customer service failings identified.

No offer of settlement was made.

Findings

The company failed to provide its services to the customer to the standard to be reasonably expected by the average person with respect to the billing of the Property and the customer service provided.

Outcome

The company needs to take the following further actions: It must apologise to the customer for the customer service failings she experienced in 2020 and 2021. It must also inspect the Property to determine the correct number of bedrooms in the Property. If it determines that there are 2 bedrooms in the Property, it must recalculate the bills for the Property on the basis of the Notional Value for a 2-bedroom property, backdated to the date on which the customer became responsible for water charges at the Property. However, if it determines that there are 3 bedrooms in the Property, or if the customer does not permit the inspection, this remedy does not need to be provided.

The customer must reply by 22 September 2022 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X052

Date of Decision: 24 August 2022

Party Details

Customer:

Company:

Case Outline

The customer's complaint is that:

- She moved into the Property in 2008.
- She informed the company at this time that it was a 2 bedroom flat.
- She repeatedly complained to the company that her bills were high, but was repeatedly assured by the company that she was being billed for a 2 bedroom flat.
- The company has said correspondence was sent to the Property in 2005 advising the basis on which the Property was to be billed, but she did not live there then.
- She believes the company has wrongly recorded her as living in a 2-bedroom house, not a 2-bedroom flat.
- The company has now agreed to correct her billing, but only back to 1 April 2020, as they say she did not notify them of the error in the billing.
- She requests that the company apologise, correct her billing, and pay compensation of £10,000.00.

The company's response is that:

- The company was notified in 2005 that the building now containing the Property had been split into two flats.
- As the company could not contact the occupier of the Property, a letter was sent asking for confirmation of the number of bedrooms in the Property, so that the Property could be set up on the correct Notional Value tariff.

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- The company then sent an engineer to determine if the two flats could be metered separately, or to gain the information necessary to set up the flats on the correct Notional Value tariff.
- The engineer identified the Property as having 3 bedrooms, which might have been done by visual inspection or by information from the occupiers or landlord.
- The notes on the customer's account reflect only 5 contacts by the customer from 2009 to 2020, only one being an inbound call.
- In none of those contacts did the customer notify the company that the Property only had 2 bedrooms.
- On 30 June 2020, the customer raised the issue of the correct billing of the Property.
- The customer's bills were subsequently amended to reflect the Property only having 2 bedrooms, backdated to 1 April 2020, slightly earlier than the date on which the customer first raised the issue.
- The customer has always been billed correctly, based on the information in the company's possession.
- The company notes that it has not asked for evidence from the customer that the Property only has 2 bedrooms.
- The company acknowledges that it does not have a record of all contacts prior to 2016, but its records show that it was not notified until 12 May 2021 that the Property only had 2 bedrooms.
- The customer has provided no evidence of notifying the company at an earlier date that the Property only had 2 bedrooms, and the fact that no previous amendment was made to the billing of the Property supports a conclusion that she did not.
- The customer's claim for compensation of £10,000.00 is disproportionate.
- The customer has already received appropriate goodwill gestures for any customer service failings, and so additional compensation for distress and inconvenience is not justified.

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

- The company is relying on the fact that it does not have complete records prior to 2016, but this is the company's fault.
- She reiterates that she told the company when she opened her account in 2008 that there were 2 bedrooms in the Property.
- The company's records do not clearly explain the basis for their engineer's 2005 determination that the Property had 2 bedrooms.
- The company has shown no recognition of or remorse for the customer service failings she experienced in 2020 and 2021.

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- Her claim for compensation of £10,000.00 is not disproportionate.
- All negative markings should be removed from her credit file.

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 core of the customer's complaint is that she has been billed for the Property from the opening of her account in 2008 until 1 April 2020 on the basis of the Property having 3 bedrooms, whereas it only has 2 bedrooms. The company argues that the billing of the Property is not properly backdated further than 1 April 2020, as the issue was not raised by the customer until 2020.
2. While in its Defence the company emphasises that the customer has produced no evidence of the Property only having 2 bedrooms, it agreed to backdate the billing of the Property on this basis.
3. However, even if it is accepted that the Property only has 2 bedrooms, it does not directly follow from this that the customer has been incorrectly billed since 2008, as the company cannot know

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the composition of the private residences that it supplies and so must rely on the information provided to it by customers. In the present case, however, the company acknowledges that the customer herself never told the company that the Property had 3 bedrooms. Instead, it argues that it received this information in 2005, prior to the customer moving into the Property.

4. While in its comments on the Proposed Decision in this case, the company argues that the evidence on which it relies for its position that the Property was identified in 2005 as having 3 bedrooms is clear, I find that it is both vague as to how that information was generated and ambiguous as to whether the reference to 3 bedrooms relates only to the Property or to the entire building. Nonetheless, I accept that the company acted in good faith on basis of the information in its possession when billing the Property as a 3-bedroom property.
5. However, I also acknowledge that the company has produced no evidence of ever having notified the customer of the precise basis of her billing. That is, if the customer were being billed on the basis of a meter, her bills would notify her of her meter readings and her per unit charges, allowing the customer to challenge the correctness of her billing. If the customer were being billed on the basis of the rateable value of the Property, she would know the precise ground for determination of the charges she received and that this valuation was not within the control of the company.
6. However, as the Property is not billed on the basis of a meter, and due to the 2005 subdivision does not have a rateable value, the company bills the Property on the basis of a Notional Value. This is a determination made by the company, that in effect attempts to replicate the rateable value the Property would have been awarded. As explained above, the company argues that it correctly used a Notional Value for a 3-bedroom property, based on the information it received in 2005.
7. While the customer argues that she informed the company when she moved into the Property in 2008 that the Property only had 2 bedrooms, there is no record in the notes on the customer's account of this information being provided, and the customer herself has provided no supporting evidence. I acknowledge in this respect the limitation faced by both parties due to the substantial passage of time. Nonetheless, a decision must be made on the basis of the evidence actually provided, rather than on the basis of speculation by the Adjudicator, and on this basis I find that it is more likely than not that the customer did not inform the company prior to 2020 that the Property only had 2 bedrooms.

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8. However, while I find no justification in the evidence actually provided by the parties for a conclusion that the company incorrectly calculated the Notional Value tariff for the Property, and I accept that the company was justified in treating the Property as having 3 bedrooms, based on the information it received in 2005, I also note that no evidence has been provided showing that the customer was at any time informed that her Property had received a Notional Value appropriate for a 3-bedroom property. The bills produced by the company merely report that “We’ve allocated a notional RV to your property based on similar properties in your area”, without describing the basis for that comparison, and the company has produced no evidence that at the time the customer opened her account, or at any other time prior to 2020, that any documentation was sent to the customer notifying her of the basis on which the Notional Value of the Property had been determined by the company.
9. Where the company uses the rateable value of a property for the purpose of billing, it is relying on a value independently determined by the government and over which the company has no control. By contrast, where the company is billing a property on the basis of a Notional Value, it is billing customers on the basis of a determination that the company itself has made, based on determinations it has made about that property. The company, therefore, has a duty of care to ensure that the Notional Value of a property is based on correct facts about that property.
10. If the company relies on inaccurate information given by a customer, then the company does not fail to provide its services to that customer to the standard to be reasonably expected by the average person in billing that customer in accordance with the information he/she has provided.
11. However, I find that where the information on which the company is relying was not provided by a customer, it constitutes a failure by the company to provide its services to that customer to the standard to be reasonably expected by the average person to not notify that customer of the facts relied upon when determining the Notional Value of a property. I acknowledge that the information in question will often be limited, due to the uncertainties inherent in the calculation of rateable values (and hence of a Notional Value). But a customer cannot challenge the correctness of their bills where they do not have the information necessary for them to do so, and where that information is exclusively held by the company.
12. I find, therefore, on the basis of the evidence provided by the parties, that the company failed to provide its services to the customer to the standard to be reasonably expected by the average

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person by failing to notify the customer that the Property was being billed on the basis of a Notional Value for a 3-bedroom property.

13. In its comments on the Proposed Decision in this case emphasised that it has not accepted that the Property only has two bedrooms, and also produced evidence indicating that the Property may have 3 bedrooms. The company also indicated that it was willing to inspect the Property to confirm the correct number of bedrooms.
14. Therefore, the company must inspect the Property to determine the correct number of bedrooms in the Property. If it determines that there are 2 bedrooms in the Property, it must recalculate the bills for the Property on the basis of the Notional Value for a 2-bedroom property, backdated to the date on which the customer became responsible for water charges at the Property. However, if it determines that there are 3 bedrooms in the Property, or if the customer does not permit the inspection, this remedy does not need to be provided.
15. The customer has also requested an apology. With respect to the billing of the Property, I accept that the company acted in good faith on the basis of the information in its possession, and so I do not find that an apology is required. However, I also find that the evidence shows the customer experiencing repeated customer service failings in 2020 and 2021, and find that an apology is appropriate in this respect.
16. Therefore, the company must apologise to the customer for the customer service failings she experienced in 2020 and 2021.
17. The customer has also requested additional compensation for the inconvenience and distress that she experienced.
18. However, I acknowledge that the company has already provided the customer with appropriate goodwill gestures for the customer service failings she experienced in 2020 and 2021.
19. In addition, while I accept that the customer has been billed at a higher rate than properly applicable for the Property, and the customer states that she repeatedly raised this issue with the company since 2008, I have found that there is insufficient evidence to justify a conclusion that such complaints were made.

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20. Therefore, I do not find that additional compensation for inconvenience and distress is justified beyond the amounts already paid to the customer.
21. The customer has also requested that all negative markings be removed from her credit file. However, no evidence has been provided on the basis of which it could reasonably be concluded that any remaining negative markings on the customer's credit file are inaccurate.
22. Therefore, this element of the customer's claim does not succeed.
23. For the reasons given above, the company must apologise to the customer for the customer service failings she experienced in 2020 and 2021. The company must also inspect the Property to determine the correct number of bedrooms in the Property. If it determines that there are 2 bedrooms in the Property, it must recalculate the bills for the Property on the basis of the Notional Value for a 2-bedroom property, backdated to the date on which the customer became responsible for water charges at the Property. However, if it determines that there are 3 bedrooms in the Property, or if the customer does not permit the inspection, this remedy does not need to be provided.

Outcome

The company needs to take the following further actions: It must apologise to the customer for the customer service failings she experienced in 2020 and 2021. It must also inspect the Property to determine the correct number of bedrooms in the Property. If it determines that there are 2 bedrooms in the Property, it must recalculate the bills for the Property on the basis of the Notional Value for a 2-bedroom property, backdated to the date on which the customer became responsible for water charges at the Property. However, if it determines that there are 3 bedrooms in the Property, or if the customer does not permit the inspection, this remedy does not need to be provided.

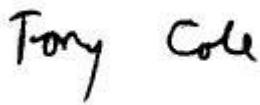
What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 22 September 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

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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.
 - 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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