

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X986

Date of Decision: 15 August 2022

#### Complaint

The company has failed to take responsibility for a blockage on its pipework.

#### Response

The blockage was on the customer's private pipework.

The company has paid the customer a goodwill gesture of £120.00 for customer service failings.

#### Findings

The evidence provided is insufficient to justify a conclusion that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.

#### Outcome

The company does not need to take any further action.

The customer must reply by 13 September 2022 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X986

Date of Decision: 15 August 2022

## Party Details

**Customer:**

**Company:**

## Case Outline

### **The customer's complaint is that:**

- The customer experienced a blockage in the sewer at the Property.
- The company attended and determined that the blockage was on private pipework and so did not undertake work.
- After further investigations by a private contractor, the customer determined that the company's engineer had made an error, mistaking a tee in the pipe for the blockage, which was actually located further downstream, on the company's pipework.
- Despite further evidence being provided, the company maintained its position that the blockage was on private pipework.
- The customer has incurred substantial costs addressing the matter, and believes that the evidence shows that the blockage was on the company's pipework.
- The company has provided poor customer service.
- The company has paid a goodwill gesture of £120.00, but the customer believes this is insufficient.
- The customer claims total compensation of £8,548.00.

### **The company's response is that:**

- The customer made contact on 22 October 2021 to report that the facilities in the Property were draining slowly, and a private contractor had determined that the company's pipework was at fault.

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- The company attended on 25 October 2021, and determined that the blockage was on the customer's private pipework.
- Further complaints were raised by the customer and further investigations undertaken by the company, but the company's conclusion remained that the problem was with the customer's private pipework.
- The company believes that the problem resulted from inappropriate items being placed into the sewer.
- Nonetheless, the company undertook some work on its own pipework to remove a swan neck, despite there being no evidence that the swan neck was the cause of the problems experienced by the customer.
- The company believes that it has provided the customer with excellent service, and it has paid the customer a goodwill gesture of £120.00 for those customer service failings it has identified.
- The company denies its liability for the customer's claim.

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

- The customer reiterates that the company has provided poor customer service, including making untrue statements and false accusations.
- The customer confirms their belief that the evidence supports their account of events, rather than that of the company, and that the compensation paid by the company is insufficient.

**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.

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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. In many disputes, the evidence as to precisely what happened will be to some degree unclear, and the law addresses this uncertainty through what has come to be known as the “balance of probabilities” test. Under this test, the decision-maker must look at the evidence provided by the parties, and decide what is most likely to have happened based on that evidence. Importantly, this decision is only based on the evidence provided by the parties, and so is made with full knowledge that the evidence provided may in some way be misleading, or that there may be additional evidence that would justify a different conclusion. However, as a decision must be made, it must be made based on the evidence actually provided, not on the decision-maker’s unsupported speculations regarding what may or may not have happened.
2. In addition, the law requires that disputes be decided in accordance with “burdens”, with the customer having the “burden” of producing evidence to support the claim. This means that if the evidence provided by the parties is evenly balanced between the accounts of the two parties, or is otherwise insufficient to justify a conclusion that the customer’s account is more likely than not correct, then the customer has failed to meet the burden and the claim cannot succeed. Again, this evaluation must be made based on the evidence actually provided by the parties, not based on unsupported speculation by the decision-maker regarding what may or may not have happened.
3. In the present case, while the evidence produced by the parties is clearly sufficient to bring into question the correctness of the company’s position, and make plausible the customer’s position, I do not find that it is sufficient to make the customer’s position “more likely than not”, as required by the law. Rather, I find that the company has provided a plausible explanation for the observable evidence, that is at least as likely as the explanation provided by the customer. As explained above, because the customer has the burden of producing evidence to support the claim, this means that the customer’s claim cannot succeed.
4. To be clear, this does not mean that I find that the customer’s explanation for the evidence provided is clearly incorrect, and I accept that the customer has pursued their claim in good faith

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in accordance with their own interpretation of the available evidence. But as I have explained, the burden is on the customer to provide evidence sufficient to make the claim more likely than not, and I do not find that the evidence provided is sufficient to meet this standard, as the company has provided a plausible explanation for the evidence produced by the customer, that is also consistent with the evidence it has itself produced.

5. In their comments on the Proposed Decision in this case, the customer objected that they did not believe the evidence had been fully considered, and instead the company's explanation was simply accepted. However, as explained above, this decision does not endorse the company's explanation for the blockage, but is instead based upon a finding that the customer has not met their burden of producing evidence sufficient to make their claim more likely than not, the evidence being equally supportive of the positions of both parties. This does not preclude that the customer's explanation may indeed be correct, but reflects only that the law places the burden on the customer, not the company, and so where the evidence is evenly balanced, as here, the customer's claim cannot succeed.
6. Therefore, although I acknowledged that the available evidence does provide some support for the customer's position, and I accept that the customer's view that the blockage was always on the company's pipework is understandable, nonetheless I find that the available evidence is insufficient to meet the customer's burden to make the claim more likely than not, rather than simply plausible.
7. In addition, I also find that the evidence shows the company actively responding to the customer's complaints and undertaking appropriate investigations into the customer's problem, despite having previously concluded that it was not responsible for that problem. While I accept the genuineness of the customer's rejection of the company's conclusions, I do not find that the company's interpretation of its investigations was unreasonable and so reflected a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person.
8. For the reasons given above, the customer's claim does not succeed.

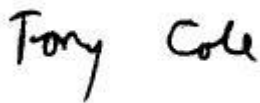
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### Outcome

The company does not need to take any further action.

### What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 13 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 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.



**Tony Cole, FCI Arb**

**Adjudicator**

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