

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT X103

Date of Final Decision: 26 September 2022

Party Details

Customer:

Company:

Complaint

The customer complains that the company made an adverse credit entry and caused a debt collection agent to try to collect payments from her in relation to a property which she did not occupy and for which she had no responsibility. She experienced inconvenience and distress and asks for compensation of £2,500.00.

Response

The company says that it acted on the basis of information provided by a credit reference agency which indicated that the customer had a connection with the property, which had been supplied with water but for which the identity of the occupier was unknown. The company says that as soon as it was alerted to the correct situation, it took action to reverse the harm that had been caused. The company offers £200.00 in compensation.

Preliminary Findings

I find that, although the company would reasonably be expected to find the identity of an unknown occupier who was using water supplied to it, in taking collections action against a customer who has not acknowledged responsibility for the bill, the company takes a risk of foreseeable harm to that customer if the information provided to the company is incorrect. An average customer would not reasonably expect a company to take collections activity against a customer who was not responsible for the bill, nor on the basis of a risk. It is now accepted that the customer was not liable. Accordingly, the customer has shown that she is entitled to compensation for inconvenience and distress, but the sum of £2,500.00 would be a disproportionate amount. A fair and reasonable sum is £300.00.

Please note, this Preliminary Decision is subject to comments from both parties and the Findings may subsequently change. This will be recorded in a Final Decision. Please refer to the 'What happens next?' section for more information.

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**Preliminary
Outcome**

The company needs to pay £300.00 to the customer.

Please note, this Preliminary Decision is subject to comments from both parties and the Outcome may subsequently change. This will be recorded in a Final Decision. Please refer to the 'What happens next?' section for more information.

What happens next?

- If you think the adjudicator has misunderstood the facts or not taken a piece of evidence into account - you have 5 working days from the date of this Preliminary Decision to provide any comments you have.
- Depending on the comments received the adjudicator can amend the outcome/s reached in the Preliminary Decision, before it is sent to both parties as the Final Decision.
- The Final Decision will be sent to you within 5 working days of the adjudicator receiving any comments on the Preliminary Decision.
- If no comments from either party are received, this Preliminary Decision will appear as the Final Decision.
- Once the Final Decision is issued, this will then finalise the adjudication process with no further appeals or review available.

ADJUDICATOR'S FINALDECISION

Adjudication Reference: WAT X103

Date of Final Decision: 5 September 2022

Case Outline

The customer's complaint is that:

- The customer complains that debt collection agents (REDACTED Debt Recovery Agency), acting on behalf of the company, contacted her frequently to chase payment of a debt in respect of a

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property at REDACTED, at which she has never lived or been responsible for the charges. Even after the customer contacted the company, the customer says that the company did not put things right because she continued to receive abusive calls and it was only at her insistence that further action was taken. Moreover, the customer's credit file was affected.

- Although the company has offered compensation of £200 .00 for the error and has explained that it does not believe this error would have caused damage to her credit file, the customer says that £2,500.00 is more appropriate.
- With regard to the company's comment that "We are unable to compensate customers for time as this may discriminate against other customers " the customer says that the company has made a fundamental error and she had to spend significant time to protect her exemplary credit record and she does not regard the company's offer as fair.

The company's response is that:

- The customer contacted the company via telephone on 16 May 2022 to let it know that she had been receiving letters/contact from a collection agency relating to a property that she had never lived at.
- The company arranged to recall the account from the collection agency on the same day and to put things right as soon as possible for the customer.
- The company apologised and arranged for the customer's credit file to be updated and the late reporting deleted but it says that compensation in the sum of £2,500.00 for distress and inconvenience is disproportionate. The company has offered the customer £200.00 in final settlement in recognition of its service failures.

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.

I have also considered the comments of the company and the customer in response to my Preliminary Decision.

How was this decision reached?

1. The customer says that she received many abusive calls from a Debt Recovery Agency whose Agent was rude, talked over her, would not listen to her explanation and did not believe her. She says she received “a barrage” of calls and texts, some early in the morning or late at night. She said that she had a stressful weekend of worry that her exemplary credit record would be tarnished and had to undertake several hours of calls on 16 May 2022 to the company which resulting in her taking a day off work to try to sort out the company’s error which was not of her making. The customer explains that she is a self-employed business owner who does not receive payment if she does not work.
2. The company does not deny that this has happened but challenges the amount of compensation claimed by the customer.
3. I find that an average customer would not reasonably expect that a debt collection agency appointed by the company would pursue the customer for a debt which was not due. I am mindful that the debt collection agency was acting on behalf of the company and under its authority and I find that the company is liable for the acts or omissions of its agent. Although the customer has referred to a barrage of texts and calls, no evidence has been put forward of this. Between 11 and 16 May 2022 inclusive, however, the documents show that at least two attempts at contact were made by the debt collection agency. I find that the company has supplied its services otherwise than to the standard that would reasonably be expected.
4. The sequence of events so far as the company was concerned, was as follows:
 - a. On 15 February 2022, an invoice was sent to number REDACTED for the period 15 February 2021 to 15 February 2022 for £218.41. This bill was in the customer’s name. The company says that the reason for this was because it had received evidence as to a financial association between the company and the customer from a credit reference

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agency. The company therefore says that it has acted on the advice of that agency. I have not seen this advice. Although a number of documents have been supplied to the adjudicator, the report of the credit reference agency which caused the company to create an account is not amongst these.

- b. On 15 February 2022, a letter was sent, again addressed to the customer, to 1 REDACTED to advise that a new account had been set up and setting the date of the start of the account as 15 February 2021.
- c. On 2 March 2022, returned correspondence was received by the company from Royal Mail with the code 'addressee gone away' and the account was closed to the date of the returned bill (2 March 2022). A final bill was also sent to the property on that date.
- d. On 14 March 2022 the bill was returned by Royal Mail with the code 'no information provided'.
- e. On 9 May 2022 a forwarding address of REDACTED was linked to the account at 1 REDACTED using data supplied by a credit reference agency and the company instructed the debt collection agency. The company comments that REDACTED has its own method of contacting customers, but it is foreseeable that the company supplied the customer's name to REDACTED with instructions to REDACTED for her.
- f. On 11 May 2022, an introductory letter was sent from REDACTED to the customer at REDACTED. This stated that REDACTED had recently undertaken an investigation relating to the water supply and the investigation had led REDACTED to believe that the customer had recently moved to her current address from that at REDACTED and that she was therefore liable for the bill. The letter asked the customer to contact REDACTED.
- g. On 16 May 20 22 an SMS text message was sent to the customer from REDACTED.
- h. On 16 May 2022, a telephone call was made by the customer to the company followed by an email of complaint. On that date, the company cancelled all charges and an outbound duty manager callback was made to the customer. In this call, the duty manager agreed to offer compensation of £75.00 and said that it was unlikely that her credit record would be affected. Also on that day, a withdrawal request was sent to REDACTED by the company as

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well as a request to waive the fee (£39.00). On the following day the company requested vacation of the adverse entries on the customer's credit file.

5. I am mindful that, although as stated above, an average customer would not expect to be incorrectly billed for a property for which she had no responsibility, a water undertaker is also entitled to raise bills against the correct customer for water used. Where customers do not declare to the company their occupation of properties that have been supplied with water, I find that water undertakers would reasonably be expected to carry out investigations. If companies failed to try to bill such customers, this would be unfair to those customers who did declare their identity and who paid for water supplied.
6. I further find that, among various resources, the use of a credit reference agency or other enquiry agent is one of several sources of information that a company might reasonably choose to use. Although the company has supplied no copy of the information received in this case, on balance, I find that it is likely that the company has acted on the basis of the information it received. In acting in this way, however, I am also mindful that a company takes a risk that the information that it has received might be incorrect and it is foreseeable that to instruct a debt collector to locate the wrong customer would cause inconvenience and distress to that customer. It is for this reason that taking collections activity against the wrong customer falls below the standard of service that would reasonably be expected. Nonetheless, I do not regard this as a "fundamental error" in the way that the customer has characterised this situation and I do not find that it would be proportionate to require the company to make payment of the sum of £2,500.00 as requested.
7. Moreover, I take into account that (although the customer makes clear in her response to the Preliminary Decision that she challenges this finding) the company acted quickly on receipt of information from the customer that she had nothing to do with the property and that she regularly paid the water bills at her own address. The customer has written a commendation to the company of the attitudes of the agent who initially took her call on 16 May 2022 and I am satisfied that the company then took action to reverse the error. Although the customer says that she had to contact the company to get it to take action and that it did not act promptly, I find that the documentation indicates that the company had put steps in place as soon as possible to regularise the position, whether this was in the event, successful or not.
8. The documentation submitted by the company does show that notwithstanding withdrawal of instructions from its debt collection agent, further attempts at debt collection with the customer

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occurred on 18 and 23 May 2022, which means that REDACTED did not immediately act on the company's withdrawal of instructions. I find that as this was an action taken on behalf of the company, an average customer would also expect the company to accept responsibility for this omission on the part of REDACTED to act immediately to stop collections activity.

9. Taking the above into account, therefore, on the question of compensation, my reasoning is as follows:
 - a. It is relevant to look at the adverse impact on the customer's file (which has now been reverse). There is no evidence of direct financial loss. On the other hand, having regard to the potential for damage to a customer's credit reputation, the making of an incorrect entry is a serious matter and should not usually be undertaken on the basis of a risk that the information relied upon is correct.
 - b. It is also unclear when the adverse credit entry was made. I find that it is likely that the customer's credit showed an adverse entry before the customer was aware of the allegation of debt and this could have caused harm during this period. This, I find, is a matter which is likely to have increased the distress that the customer subsequently experienced.
 - c. I additionally take into account that between 11 and 23 May 2022, the customer was subject to incorrect approaches by the debt collection agent which she found harassing and distressing. This was a period of 12 days and was therefore limited in duration, but the customer would have been uncertain in that period as to how and when she would cease to be contacted.
 - d. On balance, I find that an award in the range between £100.00 to £500.00 is fair and reasonable. This thus falls within Tier 2 of the WATRS Guide to Compensation for Inconvenience and Distress. The issues affecting the customer falls towards the centre of that £400.00 range.
10. As the range commences at £100.00, I found in my Preliminary Decision that it was therefore fair and reasonable to direct that the company should pay compensation to the customer at the midpoint of £300.00. The customer says in response to the Preliminary Decision that she will

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accept £500.00 to settle the matter, but I remain of the opinion that the sum of £300.00 is fair and reasonable and that is the compensation that I direct.

Outcome

The company needs to pay £300.00 to the customer.

Please note that this is a preliminary decision and the outcome may be subject to change dependent on the comments received by the parties. This will be recorded in the Final Decision.

Claire Andrews

Claire Andrews, Barrister, FCI Arb.

Adjudicator

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