

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/X120

Date of Decision: 27 September 2022

Party Details

Customer:

Company:

Complaint

The customer has a dispute with the company regarding its refusal to fully resurface his driveway following excavation works necessary to repair a blocked pipe. The customer further complains that the company has not responded to a SAR submitted many months ago. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore he has brought the claim to the WATRS Scheme and asks that the company be directed to reinstate his driveway to its original condition and pay compensation.

Response

The company denies liability to resurface the entire driveway and commits only to reinstating the areas of its excavations. The company states that it responded in good time to the SAR, but upon being made aware of non-receipt by the customer it resent all material in August 2022. The company has not made any formal offer of settlement to the customer but records it has made a goodwill payment and promised to refund any future plumbing costs incurred by the customer.

Findings

The claim does not succeed. I find that the evidence does not support that the company is liable to resurface the entire driveway. The company excavated to fix a water pressure issue that it states was caused by other parties. The company has made a reasonable goodwill payment and promises to reimburse any future plumbing costs. I find the SAR issue is outside the jurisdiction of the WATRS 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 25 October 2022 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- He has experienced an ongoing dispute with the company concerning issues with water supply services. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- He was experiencing problems of low pressure on his water supply, and was without water for two days.
- After contacting the company, it investigated and discovered a sponge lodged in the pipework.
- The company undertook two separate excavations through his driveway in its efforts to ensure all sponge material had been removed.
- On 18 December 2021 he complained to the company about the quality of the reinstatement works it had done to the driveway.
- In preference to having two reinstated patches he believes the company should resurface a greater part of the driveway. The customer says his dwelling is newly built and the excavated areas spoil the aesthetics of the property.
- The company has refused his request.
- In February 2022 he submitted a Subject Access Request [SAR] to the company but has received no response.
- Believing the company had not properly addressed his concerns he, on 14 June 2022, escalated his complaint to CCWater who took up the dispute with the company on his behalf.
- The records show that on 06 July 2022 CCWater contacted the company with a Pre-Investigation letter and requested its explanation of events and to check the level of customer service it provided.
- CCWater advised him that the company had responded to its request with a detailed communication dated 12 July 2022 in which it answered the questions raised by CCWater and included a copy of its final response to the customer issued on 17 March 2022.
- CCWater concluded that this was the final position of the company, and it could not take any further measures to have the company change its position and was thus closing his case.

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- Continuing to be dissatisfied with the response of the company he has, on 12 August 2022, referred the matter to the WATRS Scheme where he requests that the company be directed to reinstate the driveway to its original condition and pay an unspecified amount in compensation.

The company's response is that:

- It provided its response to the claim in its submission submitted on 25 August 2022.
- It confirms that it responded to the customer's SAR on 18 February 2022. It has no explanation as to why the customer refutes receiving it. The company confirms sending the requested information again on 10 August 2022.
- It acknowledges that it carried out investigatory works at the customer's property in response to him advising that he was experiencing low water pressure.
- It confirms that sponge material was discovered in the water supply pipes, and it believes it was left behind by the property developer that installed the pipework. The company says it was necessary to make three separate excavations at the property to ensure that all sponge material had been identified and removed.
- It acknowledges that it made temporary reinstatement of the excavations in the driveway as per its normal procedures.
- It intends to provide in due course a permanent reinstatement that will leave just a single reinstated area. It confirms that it will not be resurfacing the entire driveway.
- It made a £20.00 payment to the customer as a goodwill gesture for him having no water supply for two days although it has no record of this outage.
- It confirms making a goodwill gesture to refund six months' worth of water charges in the total amount of £244.00.
- It further confirms that it has previously advised the customer that it will refund charges incurred by him retaining a private plumber to check his internal pipework to ensure that sponge material is not present.

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

- On 30 August 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.

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- The customer states that he was never informed that the reinstatements were temporary and says that he has not requested the full driveway to be reinstated but an area of some 50m² and not just the 5m² the company proposes. The customer believes that the sponges were left in the pipework by the company and not the property developer as it claims. The customer asserts that he took one day of his holiday entitlement to stay at the property to await the company engineers and seeks to have the sum of £500.00 reimbursed to cover the loss of the holiday. The customer contends that he is still awaiting all of the SAR material.

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 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 declined to fully reinstate his driveway after it completed excavation works to repair a blocked water supply pipe.
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. The customer has raised concerns regarding the company's response to his SAR. However, Rule 3.4.1 of the WATRS Scheme acknowledges that part of an application should be rejected where "a customer should be referred to a more appropriate forum for the resolution of the dispute". I find that questions relating to the company's responsiveness to an SAR are more

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appropriately addressed to the Information Commissioner's Office [ICO] rather than WATRS. As a result, this element of the customer's claim will not be considered here, and if the customer wishes to raise this complaint, he should do so with the ICO.

4. The parties agree that the company completed repairs at the customer's property after he complained of low water pressure. It is agreed that sponge material was discovered in the pipework and removed.
5. The company states that the sponge material was left in the pipework by the property developer/builder. The customer has stated that he refutes this and believes the company itself left the sponge in the pipes. The evidence does not support the customer's position.
6. The company undertook three separate excavations in the driveway of the property. The company asserts that it undertook temporary tarmac reinstatements of each excavation, and plans to return to do one combined permanent reinstatement.
7. I can see that in its letter to the customer dated 17 March 2022, the company requested that he confirm his permission for it to attend the property to undertake the final rehabilitation.
8. In its response dated 12 July 2022 to the CCWater Pre-Investigation letter, the company confirms that it was still awaiting the requested permission from the customer. I see no evidence to show that the customer has approved the company's attendance to complete the permanent reinstatement.
9. It is unclear to me the exact size of the reinstated areas. The customer has stated that the entire driveway is 178m² and that he requests that the company resurface an area of approximately 50m². The customer also states that the area the company proposes to permanently reinstate is 5m², and I can see that CCWater has quoted 10m². I am not provided with any evidence to substantiate any of these figures.
10. On balance, I do not find it reasonable that the company should be directed to resurface an area greater than the perimeter of the excavated area. As it stands, it seems to me that the excavations were required because of problems not shown to have been the result of any act or omission on the part of the company. The evidence does not establish that the sponge material was placed in the pipework by the company.
11. Thus, it follows that I shall not direct that the company reinstate the driveway over and above the areas currently temporarily reinstated.
12. In his application to the WATRS Scheme the customer also requests that the company be directed to pay compensation, but does not identify either an amount of or reasons for compensation. However, in his comments dated 30 August 2022 the customer requests the

amount of £500.00 to compensate him for losing a day's holiday to be present at home to receive the company's engineers.

13. The customer says that his presence at home was necessary because of the company's incompetence and its failure to turn up to appointments.
14. I do not find the evidence supports the customer's position. I can see that the company has acknowledged that it took three months to fully investigate and remedy the water pressure issue, but I note that it made a goodwill payment of £244.00 in respect of the time taken.
15. The evidence does not establish that the customer had agreed in advance with the company that it would compensate him for holidays lost.
16. I also take into consideration that the company has confirmed that it will refund any costs incurred by the customer should he retain a plumber to examine his internal water supply system to ensure that no sponge material is present.
17. Thus, I am satisfied overall that the company has made reasonable efforts to compensate the customer, and I note that he has not claimed any direct financial loss as a result of the company's activities.
18. I do not find that compensation is appropriate, and I shall not direct the company to make any compensatory payment.
19. My conclusion on the main issues is that the company has not failed to provide its services to the standard to be reasonably expected by the average person, and the evidence does not confirm that the customer experienced a poor level of service.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 13 September 2022.
- The customer has, on 20 September 2022, responded to the Preliminary Decision.
- The customer states that he believes the company has been selective in the information it included in its Response paper.
- The customer reiterates his belief that his driveway should be fully resurfaced. He also reiterates his belief that the company's sub-contractor caused the blockage of the pipe.
- The customer has not submitted any new evidence and 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.

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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 25 October 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.
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Peter R Sansom
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Member, CI Arb Business Arbitration Panel.
Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
Member, CEDR Adjudication Panel.

Adjudicator

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