

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X127

Date of Final Decision: 28 September 2022

Party Details

Customer:

Company:

Complaint

The customer says the company has refused to take responsibility for an asset causing damage to his property. He would like the company to take responsibility for the asset and reinstate his driveway.

Response

The company denies responsibility for the tank under the customer's property and denies the claim.

Findings

The evidence shows the company provided its services to the standard to be reasonably expected.

Outcome

The company does not need to take any action.

The customer must reply by 26 October 2022 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- The company has a sewerage asset under his property that is causing the ground and his property to shift.
- He would like the company to take responsibility for the asset and reinstate his driveway.
- In comments on the company's response the customer repeated his claim and provided further documents in support.
- In comments on a preliminary decision the customer repeated his claim, disputed the outcome of the preliminary decision and said the company should answer the following questions:
 - It the company does not own the tank who does?
 - What gives the company the right to charge all 29 houses on the estate for its use.
- The customer added that he had provided an independent surveyor's report, but it seems that the company only provided its unqualified fragmented opinion.

The company's response is that:

- It has explained to the customer on several occasions that the asset does not belong to it.
- This means it is not liable for repair or maintenance of the asset or for any damages/subsidence it may have caused to the customer's property.
- It refers to DEFRA guidance in support which says:

“Private drains and sewers which are not connected to a public sewer (but which for example drain to a private treatment facility, septic tank or cess pit which does not itself discharge to the public sewerage system) are not affected by the transfer [of ownership to sewerage providers] and will remain the responsibility of their current owners.”

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- It has advised the customer to contact his home insurance provider regards the subsidence at his home.
- It denies the claim.

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 customer has provided correspondence from a surveyor which explains there is a sewage chamber under his property which has suffered from movement. This has displaced services under his property and could cause property damage. The surveyor says their understanding is that the chamber is owned by the company.
2. The company in turn denies ownership of the chamber.
3. On 6 September 2010 the government decided that most private sewers, lateral drains and pumping stations that form part of the sewer or lateral drain that connect to the public sewer network should be transferred to the ownership of the regulated sewerage companies in England and Wales. The Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 made this law.

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4. DEFRA issued guidance on the application of this law in June 2011. This says private drains and sewers which are not connected to a public sewer (but which for example drain to a private treatment facility, septic tank or cess pit which does not itself discharge to the public sewerage system) are not affected by the transfer and will remain the responsibility of their current owners.
5. Therefore this complaint turns on whether the sewage chamber is a company asset and specifically whether the chamber discharges into the public sewerage system and so is one that transferred into the company's ownership.
6. My role is to weigh up the evidence provided by the parties and to reach findings on a balance of probabilities.
7. In this case there is a lack of evidence to prove the asset belongs to the company. While the surveyor believes it does, they have not provided any substantive evidence to support this view.
8. It is not my role to investigate and gather evidence to support the customer's claim. Rather my role is to decide on the evidence provided. The evidence does not show the company has responsibility for the asset and therefore I cannot say the company was wrong in refusing to accept responsibility for any damage caused by it.
9. The evidence does not show the company failed to provide its services to the standard to be reasonably expected. Therefore, the customer's claim is unable to succeed.
10. I appreciate the customer will be disappointed with this outcome. However, he may wish to seek further independent legal advice on his options.
11. I acknowledge the customer has raised queries in his comments on a preliminary decision. He may address these to the company if he wishes. I cannot direct the company respond under this adjudication as I have not found any failing proven in order to direct a remedy. The customer's remaining comments are addressed within my findings above, which remain the same.

Outcome

The company does not need to take any action.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 26 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.



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

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