

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/X173

Date of Decision: 04 November 2022

Party Details

Customer:

Company:

Complaint

The customer has a dispute with the company regarding a higher-than-average bill issued in February 2021. The customer says he operates a small business with only five staff, and it is not possible that the business consumed the quantity of water claimed by the company. 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 recalculate the bills for the period of over-charging using the average consumption shown on previous bills.

Response

The company states that it has fulfilled its responsibilities to the customer as his water retailer, in that it has carried out full investigation and made representations to the wholesaler in respect of his requests to have it recalculate his higher than average bill. The company states that the wholesaler is satisfied the consumption billed is an accurate reflection of the quantity of water passing through the customer's meter. The company records that it made a formal offer of settlement to the customer that he rejected.

Findings

I find that the evidence does not support the customer's claim. I am satisfied the company acted reasonably in its dealings with the customer, and that the company is not responsible for granting a recalculation of previously issued bills. I am satisfied the company made reasonable efforts to have the wholesaler reconsider the consumption figures and to possibly grant a leak allowance, but without success. I find that the evidence shows that the company has not failed to provide its services to a reasonable level and nor has failed to manage 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 02 December 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 billing on his account. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- The bill received in February 2021 was approximately £7,000.00 higher than the normal average bill. This high bill represented a spike in consumption between August 2019 and March 2021.
- He operates only a small sized business and thus does not believe it is possible to have used such a high volume of water. The customer says the business only employs five people and the premises does not have any kitchen facilities for the staff.
- He contacted the company immediately to question the bill but says he did not receive a response until December 2021.
- The company advised him that it had contacted the wholesaler who denied doing any work in his neighbourhood during preceding months and thus had no input to the increased consumption.
- He had not identified any leakages at the property during the high consumption period, and he understands that the wholesaler also found no evidence of leakage at any time.
- Believing the company had not properly addressed his concerns he, on 26 May 2022, escalated his complaint to CCWater who took up the dispute with the company on his behalf.
- The records show that CCWater contacted the company requesting its explanation of events and to check the level of customer service it provided.
- The company responded and confirmed that it had issued its final position to the customer on his complaint in its communication dated 11 March 2022. The company stated that it had referred on several occasions to the wholesaler whose investigations confirmed that all water passing through the meter was a correct record of the customer's consumption.
- The company offered a 50% reduction in the outstanding bill, but he rejected it.

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- On 30 June 2022, CCWater wrote to him and concluded that he could not provide any evidence to show a leak, and that the wholesaler denied working in his neighbourhood during the period of high consumption. CCWater said that it believed the 50% reduction offer was fair and reasonable.
- CCWater confirmed it could not take any further measures to have the company change its position and was thus closing his case.
- Continuing to be dissatisfied with the response of the company he has, on 19 September 2022, referred the matter to the WATRS Scheme where he requests that the company be directed to re-issue all invoices for the period August 2019 to March 2021 to reflect the normal average consumption prior to August 2019.

The company's response is that:

- It provided its response to the claim in its submission dated 03 October 2022.
- It acknowledges that the customer contacted it to advise that the bill issued in February 2021 was higher than the usual average bill.
- It confirms referring the complaint to the wholesaler, who in turn confirmed that neither it or the local authority had carried out any works near the customer's premises and thus were not contributing factors to the consumption spike.
- It notes that the customer's consumption returned to the average volume during the subsequent period between March 2021 and February 2022 and because of this the wholesaler deemed the meter was operating correctly.
- Neither the wholesaler nor the customer identified a leak at the premises, and thus a leak allowance could not be obtained from the wholesaler.
- It acknowledges that it did not accept a meter reading taken on 18 August 2020 and thus issued a bill to the customer based on estimated readings. The company further acknowledges that it subsequently issued a high catch-up read and because of this it offered a goodwill gesture to the customer whereby it proposed to reduce his outstanding balance of £8,189.43 by 50%.
- It believes the offer was reasonable but acknowledges that the customer rejected it.
- It confirms that it has obtained the assistance of the wholesaler, the local authority, and the customer himself, when investigating the consumption spike. The company says it is satisfied

that because no fault can be found the consumption recorded is an accurate record of water flowing through the meter.

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

- On 11 October 2022, the customer submitted 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.
- The customer says that no evidence has been submitted to show that the meter is working correctly, and he believes the goodwill gesture is insufficient as it still leaves him with a large outstanding balance that he believes is incorrect.

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 issued a higher-than-average bill that he believes is inaccurate and not a true record of his consumption. The company contends that it has made investigations but the wholesaler confirms the consumption reflects actual usage.

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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. I am aware that both the water retailer and water wholesaler are referred to in the evidential documents submitted to me. The retailer is REDACTED and the wholesaler is REDACTED. In this WATRS adjudication decision, REDACTED is defined as the "company".
4. I further find that it is useful at this point to set out the different responsibilities of retailers and wholesalers in respect of business customers. Simplistically, the wholesaler is responsible for the provision and maintenance of the water supply network and the retailer handles account management, billing, customer service etc. The wholesaler bills the retailer in bulk for the water consumed by its customers with the retailer then billing the individual customer.
5. Following the opening of the business water market on 01 April 2017 the wholesaler is permitted to set the tariffs for water delivery and maintenance of the water supply network. This also means that the wholesaler sets out its other procedures such as bill adjustments, leak allowances, refunds, etc.
6. The retailer does not set tariffs nor grant rebates or allowances, and is obliged in its customer facing role to manage administrative dealings such as billing, meter reading, and providing customer services.
7. From the evidence provided to me I am aware that the property of the customer is classified as a business and therefore he is a customer of the company and not the wholesaler. The customer receives his water supply from the wholesaler, but it is the company that issues a bill to the customer.
8. The company only has to act as a go between to request the wholesaler consider the customer's queries/requests for investigation/requests for a leak allowance or bill reduction etc (and it cannot amend the charge being levied by the wholesaler).
9. The evidence supplied by the parties shows that the customer had a reasonably constant average consumption between April 2017 and August 2019.
10. The evidence further shows that the customer did experience a higher than the previous average consumption between August 2019 and March 2021.
11. I can see that by February 2022, consumption had returned to the pre-August 2019 average.
12. The customer states he had not identified any leakages at the property between August 2019 and March 2021. The wholesaler further confirms that its own investigations did not identify any leaks at the property.

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13. The wholesaler and local authority have both confirmed that they did not undertake any works in the customer's neighbourhood during the period of high consumption. The customer did not submit any evidence to refute the wholesaler's position.
14. I take note that the customer has questioned the wholesaler's statement that the meter was functioning correctly. Again, the customer has not submitted any evidence to show that the meter was malfunctioning, and I see no evidence that the customer at any time requested to have the meter tested.
15. I thus find that on a balance of probabilities the water passing through the meter is a true record of actual consumption by the customer at his property. The evidence does not establish that it is not a true record.
16. The customer requests to have the company be directed to recalculate his bills for the period between August 2019 and March 2021 and base them on his average consumption between April 2017 and August 2019.
17. As I have found that the consumption figures are not an incorrect record it thus follows that the bills issued by the company are based on correct readings and thus do need to be recalculated. I shall not direct the company to re-calculate or re-issue bills for the period between August 2019 and March 2021.
18. I find that in its capacity as retailer, the company has successfully fulfilled its role to represent the customer's issues to the wholesaler and report back the wholesaler's decision. I find that the evidence does not support that any act or omission on the part of the company has contributed to any financial loss the customer may have experienced.
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.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 24 October 2022.
- The company has, also on 24 October 2022, responded to the Preliminary Decision.
- The company states it is satisfied with the Preliminary Decision.
- The customer has, on 28 October 2022, responded to the Preliminary Decision.
- The customer states that he does not accept that the company could not offer additional relief in respect of the high bill despite decisions on billing adjustments resting with the wholesaler. The customer notes that the company made an earlier goodwill gesture.

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- Upon review I am satisfied that the company is not obliged to make any billing adjustments, and it is its own decision to make goodwill gestures. A decision to grant a bill adjustment remains within the gift of the wholesaler.
- I remain satisfied that the company made reasonable representations to the wholesaler on the customer's behalf.
- The parties have 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 responses of the parties I am satisfied that no amendments are required to the Preliminary Decision.

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 02 December 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.



Peter R Sansom
MSc (Law); FCI Arb; FA Arb;
Member, London Court of International Arbitration.
Member, CI Arb Business Arbitration Panel.
Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
Member, CEDR Adjudication Panel.

Independent Adjudicator

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