

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/X160

Date of Decision: 03 January 2023

Party Details

Customer:

Company:

Complaint

The customer has a dispute with the company regarding issues in respect of wastewater and water supply services. The customer claims that the company has provided a poor level of service and customer service in its responses to a flooding incident and subsequent bad smells. The customer says 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 pay compensation in the amount of £2,950.00 for distress and inconvenience.

Response

The company acknowledges customer service failings but says it has made a settlement offer to the customer in the amount of £500.00 that he has rejected. The company believes the offer is reasonable and consistent with awards to other customers and thus refuses to increase the compensation.

Findings

I find that the evidence shows that the company has acknowledged customer service failings and that these contributed to the distress and inconvenience the customer may have experienced. I find that the evidence establishes that compensation is appropriate, but the amount claimed by the customer is disproportionate to the harm done. I find that the evidence shows that the company has failed to provide its services to a reasonable level and has not managed the customer's account to the level to be reasonably expected by the average person.

Outcome

The company shall pay the sum of £250.00 in compensation.

The customer must reply by 31 January 2023 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 and wastewater services. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- In December 2019 he experienced a flooding incident to the basement at a property that he rents out.
- After many hours spent in contact with the company it, on 17 January 2020, inspected the property and accepted that the cause of the flooding was located on its assets.
- On 10 February 2020 the company completed repair works, but water remained in the cellar and was not pumped out. The customer states that the cellar finally became dry in November 2020.
- Following the drying of the cellar the customer contacted his home insurers who paid him £781.44 towards the cost of the necessary repair works, but this amount was £450.00 less than the full cost that he had paid.
- In February and March 2021, he contacted the company again to complain of very unpleasant odours in and around the property, and after an inspection the company stated that several manhole covers needed replacing. The customer says that only one manhole cover has been replaced.
- During a further visit by a company engineer in April 2021 the company stated that the earlier repair works had failed to reinstall an interceptor in the pipeline and this allowed the smells to emanate out of the system.
- In August 2021 the company replaced the interceptor, but the unpleasant smell persisted.
- The company returned and did some further works to the manholes, and that by February 2022 the smell had gone away. The customer says that there is an outstanding issue remaining in respect of sealing the manholes in order to prevent reoccurrence of the smells.
- The company accepted service shortcomings and offered him £500.00 in compensation.

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- Believing the company was not properly addressing his concerns he, on 18 March 2021, escalated his complaint to CCWater who took up the dispute with the company on his behalf. Subsequently, CCWater opened two separate cases, for the flooding and then the foul smells, and due to the ongoing situation with the disputes a third case was opened in January 2022.
- The records show that on 27 January 2022 CCWater contacted the company with a Pre-Investigation letter requesting its explanation of events and to check the level of customer service it provided. The letter advised the company that the customer was seeking to be refunded the £450.00 cost for repair works plus £2,500.00 for distress and inconvenience.
- On 23 April 2022 the company responded to CCWater and confirmed that its final offer to the customer was for £500.00 in compensation in full and final settlement.
- CCWater concluded that 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 26 August 2022, referred the matter to the WATRS Scheme where he requests that the company be directed to provide compensation in the sum of £2,950.00.

The company's response is that:

- It provided its response to the WATRS claim in its submission dated 21 November 2022.
- It confirms that the customer contacted it in December 2019 to complain of flooding to the cellar of his rental property.
- It attended the customer's property and cleared a blockage in pipework.
- Following further investigations an additional defect was identified and repaired.
- It also identified that certain manholes needed replacing and/or sealing, and this work was also successfully completed.
- It acknowledges that because of the COVID pandemic the completion of the works took longer than would previously have been the case.
- It made a goodwill offer to the customer in the sum of £350.00 that he rejected.
- Following the intervention of CCWater the offer was increased to £500.00, and again this was not accepted by the customer.

- In respect of the customer's claim for compensation it states that it is not liable for the customer accepting a lower insurance pay-out than the actual cost of the work.
- In respect of the customer's claim for compensation in the amount of £2,500 for distress and inconvenience it states that its offer of £500.00 was in full and final settlement, and as it believes it is a fair offer it refuses to increase the amount offered.

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

- On 09 December 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.
- The customer reiterates the chronology of events that he previously supplied. The customer states that the defence submission is full of inaccuracies and false statements, and repeats that the three years of dealing with the issues has caused him mental health problems.

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 provided a very low level of customer service whilst he has dealt with it over a long ongoing problem with flooding and foul smells. The company states that all issues have been resolved and all necessary repair works completed, albeit over a protracted time period.
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 can see that the parties agree that the customer complained of flooding to his basement in December 2019.
4. The parties further agree that in February 2021 the company undertook repairs following its investigations into the cause of the flooding event, and removed a blockage from its pipework assets.
5. I can see that the company recommended to the customer that he contact his insurance company in respect of flood damage to the basement.
6. The customer says that he received a pay-out from his insurers, but that the amount received was £450.00 less than the actual cost he incurred having the work undertaken.
7. The customer had requested that the company refund him the £450.00 shortfall. I can see that the company has refused to do so.
8. In his application to the WATRS Scheme the customer has requested that the company be directed to reimburse the shortfall.
9. The company has produced a document entitled "*Your guide to sewer flooding*", and this states:-

Compensation

Although we're responsible for maintaining and repairing the public sewerage system, we're rarely liable for any loss or damage to your personal belongings as a result of the flooding. This is because for us to be liable, the flooding would need to have been caused or made worse as a result of a failure on our part to reasonably repair or maintain the public sewerage network. For instance, if the flooding was caused due to a one-off blockage in our sewerage pipes and we cleared this in a reasonable period of time, we will have acted reasonably and therefore would not be liable for any damage.

10. The evidence shows that the customer contacted the company on 30 December 2019 and the company attended on 06 January 2020 to pump the water out of the basement.
11. The company commenced investigations and discovered a blockage in one of its sewer pipes in the adjoining road and commenced repair works on 07 January 2020.
12. Due to COVID restrictions the company acknowledges that the work took longer than would previously have been expected and I can see the works were completed on 10 February 2020.
13. I am satisfied, on a balance of probabilities, that the period of repair between 07 January 2020 and 10 February 2020 was reasonable taking into consideration the restrictions to normal working and I do not find that the company's response and actions fell below reasonable standards. As such I do not find the company is liable to refund the £450.00 shortfall.
14. Also, in his application to the WATRS Scheme, the customer requests that the company be directed to pay compensation in the sum of £2,500.00 for distress and inconvenience.
15. I can see that on 23 April 2022 the company made a full and final compensatory settlement offer of £500.00, to include for the elements where the company believed it failed the customer, such as poor communications, delay in completing the works, and the length of time the issue has been ongoing.
16. I am thus satisfied that the company has accepted that there were customer service failings.
17. I take note that CCWater have, since January 2020, raised three separate cases in respect of the customer's complaints, for sewer flooding, foul sewer smell after the flooding, and the most recent claim for compensation.
18. Thus, the customer has been in ongoing communication with both the company and CCWater for approximately three years.
19. I also take note that the customer, on 30 June 2022, raised a formal complaint against CCWater claiming that its treatment of him was "*utterly shocking*".
20. I take note that the customer has submitted a large volume of evidence in support of his case. However, from my examination of the evidence, I believe, on a balance of probabilities, that the customer has been frustrated by the purported acts and omissions of both CCWater and the company.
21. Thus, I am satisfied that any distress and inconvenience that the customer may have suffered was not exclusively as a result of the company's performance.

22. It seems to me that the first incident lasted from December 2019 to February 2021 and the second incident (foul smells) occurred between February 2021 and February 2022, and the customer's current issue is to do with an unstable manhole cover in the adjacent road.
23. I find that the evidence does establish that the actions of the company did contribute to any distress and inconvenience that the customer may have experienced and thus it follows that I find compensation is appropriate. However, I find the amount claimed is disproportionate to the harm done.
24. I am content to grade the company's shortcomings at Tier 2 level of the *WATRS Guide to Compensation for Inconvenience and Distress* and direct that the company shall pay the sum of £250.00 in compensation.
25. My conclusion on the main issues is that the company has 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 21 December 2022.
- The customer has, on 29 December 2022, submitted detailed comments on the Preliminary Decision.
- The customer notes that his name was incorrectly spelt, this has been corrected in the Final Decision.
- The customer contends that the amount awarded in compensation is insufficient. After reading the extensive comments of the customer I find no reason to increase the level of my award.
- The customer also contends that the facts of the dispute have been incorrectly understood and submits additional comments on the chronology of the dispute. It seems to me that the customer disputes the statements of the company, but I find that the customer had the full opportunity to raise these comments when he was supplied with the company's Defence. The comments are noted, but as no new evidence is submitted then I am satisfied that the facts upon which the Preliminary Decision was based remain unchanged.
- I accept that the customer has been living with the dispute for a long period of time and has his own understanding of events. However, as a third-party unbiased adjudicator I have made my Decision based on my understanding of the evidence provided by both parties. I understand that the customer may not agree with my findings, but this does not render them wrong.

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- Having read the response of the customer I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

The company shall pay £250.00 in compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 31 January 2023 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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