

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X270

Date of Final Decision: 22 December 2022

Party Details

Customer:

Company:

Complaint

The customer claims that the company refuses to repair the leaking sewage pipe outside the boundaries of his property. The customer is seeking the company to apologise, take responsibility for repairing the sewage pipe and pay compensation for the inconvenience and distress caused.

Response

The Land Registry documents that are available for the property show that there is a retaining wall which forms part of the property and is the physical boundary with the pavement. The leak has been identified as coming from the customer's private sewage pipe situated within a recess of the rockface and retaining wall. Therefore, as the property owner, it is the customer's responsibility to repair. In addition, the pipe serves only the customer's property, and only when it falls below the pavement level and joins the public sewer does it become the company's responsibility. The company has not made any offers of settlement.

Findings

I am satisfied that the company did not fail to provide its services to the standard to be reasonably expected regarding the customer's private sewage pipe.

Outcome

The company does not need to take any further action.

The customer has until 17 January 2023 to accept or reject this decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

ADJUDICATOR'S FINAL DECISION

Adjudication Reference: WAT-X270

Date of Final Decision: 22 December 2022

Case Outline

The customer's complaint is that:

- The company refuses to repair the leaking sewage pipe outside the boundaries of his property.
- The customer is seeking the company to apologise, take responsibility for repairing the sewage pipe and pay compensation for the inconvenience and distress caused.

The company's response is that:

- The Land Registry documents that are available for the property show that there is a retaining wall which forms part of the property and is the physical boundary with the pavement.
- The leak has been identified as coming from the customer's private sewage pipe within a recess of the rockface and within a retaining wall.
- Therefore, as the property owner, it is the customer's responsibility to repair.
- In addition, the pipe serves only the customer's property, and only when it falls below the pavement level and joins the public sewer does it become the company's responsibility.

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 another disadvantage as a result of a failure 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.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

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. This dispute centres on whether the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person concerning the customer's sewage pipe.
2. The company must meet the standards set out in the Water Industry Act 1991 and the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008. The combined effect of these is to place an obligation on a water and sewerage company that when there is a leak report, the company needs to thoroughly investigate if the company's pipework is to blame and, if repairs are required, make such repairs to prevent further leaks.
3. Furthermore, the company also has certain obligations regarding its customer services as set out in the OFWAT Guaranteed Standards Scheme and its Customer Guarantee Scheme.
4. From the evidence put forward by the customer and the company, I understand that the customer contacted the company on 18 March 2022 regarding a leak on the vertical sewage pipe situated within his property's retaining wall. The evidence shows that the company investigated the issue on the same day by carrying out a dye test, and it was confirmed that the wastewater was coming from inside the customer's property when the facilities were in use. In addition, CCTV was used to verify that there were displaced and open joints at the top of the pipework that was within the retaining wall.
5. On 21 March 2022, the company reattended the property and confirmed that the leak was on the customer's private sewage pipe, situated within his property's retaining wall. The customer disputed this as the retaining wall was on the outside of the rockface, and as far as he was concerned, the rockface was the property's boundary. A further visit at the location of the leak was organised for 18 April 2022, where once again, the company advised the customer that the leak was a private matter and not the responsibility of the company.
6. Following further contact from the customer, the company obtained the Land Registry documents for the property. On 13 May 2022, the company contacted the customer to advise that as the Land

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

Registry documents showed that the wall appeared to be an integral part of the building's foundations, it was satisfied that the sewage pipe was private.

7. The customer remained unhappy with the company's response as he believed that the pipework that ran from the outside of the rockface from his property to ground level was the company's responsibility and escalated the dispute to CCWater in July 2022 to resolve without success. On 25 October 2022, the customer commenced the WATRS adjudication process.
8. As set out in the company's response, the company is responsible for the sewer pipework from the property's boundary if the pipework serves only one property. The pipework from the boundary to the property is owned by the property owner, who is responsible for maintenance and keeping it in good condition.
9. The company, within its response, says as the pipework only serves the customer's property, it would not have been transferred to the company as a transferrable asset under the Transfer of Private Sewers Regulations 2011 or any other legislation. In this case, the company is only responsible for the pipework when it meets the pavement and drops into the chamber, and is situated below ground level.
10. I note the customer's comments that a previous party constructed a stone wall around the vertical section of clay sewer pipe from ground level, against the rock face and within the bounds of the highway and in his view, this work took place in the early 1970s by the District Urban Council or the subsequent Local Authority. However, he says the work will not have been undertaken by the previous owner as he would not have had the powers to undertake such work or requisition the land for the wall's construction.
11. Whilst I sympathise with the customer, after reviewing the documents put forward in evidence, I find that the various maps and documentation show that the property's boundary would include the retaining stone wall and the rock face. Concerning the ownership of the retaining stone wall, I can find no evidence that this work took place in the early 1970s by the REDACTED. Without any evidence of such, it seems on the balance of probabilities that the retaining wall surrounding the sewer pipework was constructed by a previous owner who already owned the land as it fell within the boundaries of the property, as shown by the Land Registry documents. Furthermore, the customer's property and pipework are retained by the stone wall; therefore, it follows that it is the customer's responsibility to maintain it.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

Therefore, until the pipework reaches ground level, the pipework is private and the customer's responsibility.

12. The company has certain obligations in respect of its customer services. From the evidence provided, I am satisfied that by the end of the company's dialogue with the customer, the company had adequately explained the reasons why the sewage pipe up until ground level was the customer's responsibility. Furthermore, on reviewing the various correspondence, I believe that the company dealt with the customer's concerns efficiently and appropriately considering the circumstances.
13. The customer and company have both made comments on the preliminary decision and having carefully considered each aspect of both sets of comments, I find that they do not change my findings, which remain unaltered from the preliminary decision.
14. Considering the above, I find the customer has not proven the company failed to provide its services to the customer to the standard to be reasonably expected by the average person concerning the customer's sewage pipework.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 17 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.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a long horizontal line that ends in a small hook.

**Mark Ledger FCI Arb
Adjudicator**

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.