

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X297

Date of Final Decision: 31 January 2023

Party Details

Customer:

Company:.

Complaint

The company's water main burst and the customer's property was severely flooded as a result, but the company failed to attend on the day the flood was reported and failed to turn off the water to stop the flood when it attended the next day, which increased the level of damage. The company advised the customer to claim for the damage first so that urgent repairs could be undertaken, and told her she would be able to claim for distress and inconvenience at a later date. The company paid for the repairs to her property but when the customer submitted her claim for distress and inconvenience, the company did not acknowledge it. The company has offered the customer a goodwill payment of £350.00 to acknowledge service failings; however, in light of the time the customer has spent dealing with this issue, and the stress and inconvenience she has suffered, the customer claims compensation of £1,200.00.

Response

The company reached a full and final settlement with the customer for the losses caused by the flood. The customer then claimed £1,200.00 for time and inconvenience but, as a final settlement had already been agreed, the claim was declined. In view of this, the company denies liability to compensate the customer further, but has offered her a goodwill payment of £350.00 to recognise the inconvenience caused to the customer by its service failings.

Findings

The evidence indicates that the customer and the company have already reached a full and final settlement for the losses caused by the flood, and I find that the parties are bound by that agreement. Therefore, I do not find the

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company's failure to compensate the customer for the distress and inconvenience she suffered as a result of the flood amounts to a failing on the company's behalf. However, the evidence demonstrates that the customer service provided by the company during the complaints process failed to meet the standard reasonably expected by the average person, and this caused significant distress and inconvenience to the customer. In view of this, I direct the company to pay the customer £500.00 in compensation for distress and inconvenience.

Outcome

I direct the company to pay the customer £500.00 in compensation for distress and inconvenience.

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Case Outline

The customer's complaint is that:

- On 7 December 2020, the company's water main burst and caused significant damage to her property.
- The company says that it was not aware her paddock and arena were flooded until 8 December 2020. However, her neighbour reported the flood so she did not think there was a need to telephone again until the morning of 8 December 2020, when the company had still not arrived.
- The company's technician told her that somebody should have attended the previous night as the flood was serious. She asked whether the water could be turned off, but the technician said the company could not do this as it would interrupt the supply to other properties, so the water was left to run until late in the evening. Therefore, the company deliberately allowed the water to flood her property for a day and a half to prevent inconvenience to other customers.
- The technician reassured her that the company would compensate her for all the losses she suffered. Due to the company's failure to deal with the flood on 7 December 2020, and the delay in turning the water off, she incurred significant costs and suffered a huge amount of stress, not just because of the obvious distress caused by the flood, but also because one of her horses was injured and her dog was almost run over.
- There have been significant delays and difficulties in resolving this matter. She submitted the completed claim form on 7 July 2021, but did not received a meaningful response until 15 October 2021, despite her chasing the issue on many occasions by sending messages to the company, and an offer was not made until 21 October 2021, fifteen weeks after her claim for was submitted. During this time she had to use her damaged arena and she was becoming increasingly stressed as the winter weather was looming.
- She submitted a second claim for £1,200.00 for the distress and inconvenience she suffered, but the company refused to pay it because the claim for damage was paid in full and final settlement. However, the claims handler told her on more than one occasion that the claim for her time and inconvenience could be made after the claim for damage so that urgent repairs

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could be carried out quickly. In any event, the company did make a further payment after the initial payment was made because the contractor's quotations went up in price.

- The company says she should have claimed from her insurance company to avoid having to provide quotations. However, due to the specialist nature of the damaged arena she would have had to supply quotations anyway, and she did not want to claim off her insurance company as she would lose her no-claims bonus.
- The service provided by the company has been poor; it has not kept to its own timescales and has refused to provide a transcript of the phone call in which she was told to make an initial claim for damage and a later claim for other losses.
- She was very disappointed and insulted by the goodwill offer of £350.00 made by the company, and she wants the company to cover all the losses she suffered as a result of the flood, including the time she has spent dealing with this issue, and the stress and inconvenience caused by its service failings. In view of this, she claims £1,200.00 in compensation.

The company's response is that:

- A burst main was reported on 7 December 2020 at around 16.13 by a passer-by, who said that there was a leak on the road next to the customer's property, and the flow of water was steady but was not causing a hazard.
- Jobs are allocated to its technicians and prioritised depending on the severity of the issue. Based on the information received, the leak was not inspected until 8 December 2020. It received no other calls about the leak and, therefore, it was not made aware that the customer's paddock/arena was being flooded.
- The inspection that took place on 8 December 2020 confirmed that the burst was much worse than reported, and the water had flooded the customer's paddock/arena. Its service partners attended the same day to carry out a repair.
- It is extremely sorry that the customer incurred significant damage to her property because of the burst. It is also sorry that the customer is unhappy with the length of time taken to process her claim. Due to staffing problems, it took longer for the claim to be processed than it should have done.
- However, the customer's claim for £1,200.00 for her time and inconvenience should have been included in the claim for the losses caused by the leak. The customer's claim for damages/losses has already been processed and payments have been issued based on the information provided by the customer at that time.
- Before any settlement is paid, an 'Offer of Discharge Form' is sent out to the customer. A claim will not be paid unless a signed 'Offer of Discharge Form' is received. The customer signed the

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form and thereby agreed that the payment made would be a full and final settlement of her claim. In view of this, the customer's claim for £1,200.00 was declined.

- However, it has offered the customer a goodwill payment of £350.00 to recognise the inconvenience caused and the time taken to acknowledge the customer's claim for damage. The offer also recognises the poor level of service it provided due to staffing levels.

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 claims that she was told that she would be able to make a claim for time and inconvenience after her initial claim for damage had been processed; however, when she made her claim for time and inconvenience, it was refused on the basis that the settlement of the damage claim was a full and final settlement and no further claims relating to the flood could be made. The company explains that when it agreed to settle the customer's claim, she completed an 'Offer of Discharge Form' and thereby agreed that no further claims would be made regarding the flooding incident.
2. Having reviewed the submissions of the parties and the evidence provided by CCW, I find that on the balance of probabilities the customer did sign an 'Offer of Discharge Form' and, in so doing, agreed to accept the payment offered in full and final settlement of the claim. I understand that the customer says she was told by a case handler that she would be able to

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make further claims; however, I find that signing the 'Offer of Discharge Form' binds the customer to its terms, regardless of what was said previously.

3. In view of this, I find that the company's refusal to compensate the customer for the distress and inconvenience she suffered as a direct result of the flooding does not amount to a failing on the company's behalf. The contract reached between the parties also means that it would not be reasonable for me to consider the customer's claim for compensation for distress and inconvenience directly associated with the flooding incident, or the time she spent completing and gathering information for her damage claim.
4. However, having considered the circumstances of the case, I am able to consider whether the customer service provided by the company during the complaints process has failed to meet the standard reasonably expected by the average person. If I find a failing on the company's part in this regard, I will then consider whether the company's failing caused the customer distress and inconvenience and if so, I will direct the company to compensate the customer in accordance with the 'WATRS Guide to Compensation for Inconvenience and Distress'.
5. The customer says that she sent her completed claim form to the company on 7 July 2021 but did not received a meaningful response until 15 October 2021, despite her contacting the company to chase the issue on many occasions, and an offer was not made until 21 October 2021, fifteen weeks after her claim form was submitted. The customer also explains that the company's service failings caused her a significant level of distress and inconvenience, especially as she had nowhere to exercise her horses and dogs.
6. The company admits that staffing issues resulted in a delay in processing the customer's claim and that there were further service failings, and that this caused inconvenience to the customer. As such, the company has offered the customer £350.00 as a goodwill gesture.
7. The evidence provided by CCW confirms that there was a considerable delay in dealing with the customer's claim and there were various missed contacts. The evidence also demonstrates that the customer spent a considerable amount of time chasing the company for a response, and she suffered stress and frustration, not least because the delay prolonged the time she was without her arena to exercise her animals.
8. In view of the above, I find that the company failed to provide its service to the standard reasonably expected by the average person, and that this caused inconvenience and distress

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to the customer; therefore, I find that the company should compensate the customer for the inconvenience and distress she suffered as result of its customer service failings.

9. In order to determine whether the amount already offered by the company is reasonable, I have consulted the WATRS Guide to Compensation for Inconvenience and Distress. After reviewing this document, I find a high range Tier 2 compensatory payment is appropriate and, therefore, the amount offered by the company is not enough and I direct the company to pay the customer £500.00. I understand that this is not as much as the customer hoped for and she may be disappointed; however, I am satisfied that it is a fair amount of compensation for the company to pay in the circumstances.

Outcome

I direct the company to pay the customer £500.00 in compensation for distress and inconvenience.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 13 February 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.

K S Wilks

Katharine Wilks

Adjudicator

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