

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X306

Date of Final Decision: 16 January 2023

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer's property suffers from low pressure. In March 2021, the customer complained to the company and it agreed to replace the communication pipe to her property. However, the company changed its mind when it realised how long the pipe was, and said that the pipe was actually a privately owned shared supply, not a company-owned communication pipe. The customer wants the company to resolve the low pressure issues by honouring its agreement to carry out the works at its own cost.

Response

The company has undertaken pressure checks and has found that the pressure on the supply from the main to the customer's external stop tap is satisfactory, but the customer's supply is shared. The company is responsible for the pressure up to the external stop tap, but after this the pipes are private and the responsibility of the property owner. As the supply pipe is private, it is the customer's responsibility to replace it and/or split the supply to increase the water pressure. In view of this, it denies responsibility to replace the customer's supply pipe.

The company has not made an offer of settlement.

Findings

The evidence shows that on the balance of probabilities the pipework from the customer's external stop tap is privately owned and, therefore, the company has not failed to provide its service to the standard reasonably expected by the average person by refusing to replace it. Therefore, the customer's claim does not succeed.

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Outcome

The company does not need to take any further action.

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Case Outline

The customer's complaint is that:

- Her property suffers from low pressure and when the neighbouring farm uses water, she has little or no water pressure at all. This happens several times each day as the farm milks its cows three times a day, then washes down the dairy and waters the herd.
- She first complained to the company in March 2021, and it investigated and agreed that the pressure was low. The company decided to replace the communication pipe to her property and the plans were so advanced that the company put up a road closure notice in the lane. However, days before the works were due to commence, the company said that it would not do the work as the pipe was actually a privately owned supply pipe, not a communication pipe, and its responsibility stops at the new stop tap it installed 200 metres from her property.
- She challenged this decision but the company would not change its mind, even though it provided no evidence to show that the pipework is private.
- Later, the company said her property was on a shared supply with the farm. This is incorrect as the farmer says he installed his own supply from the main 100 metres before the newly installed stop tap, making it approximately 300 metres away from her property. Therefore, it seems that the main cannot cope when the farm uses a high amount on water.
- There is a chamber in her driveway which has four stop taps, one of which is for her property, so the supply pipe to this chamber must be a communication pipe owned by the company.
- Both she and the farmer were both told by the company's employees that it was not in the company's interests to extend the main. She requested this in writing but did not get a response.
- The company's response to her claim is contradictory as it says it has "confirmed that the customer is on a shared supply", but in other information, dated 10 August 2021, it says it is "highly likely" she is on a joint supply, but the word "confirmed" is not used in any of the other documentation provided. Also, the company says it replaced a stop tap just off the main on the feed to her property, which also suggests the supply is not shared.
- The company has not produced any evidence to prove that the pipe is private, and up until the time when the new tap was fitted, it was referred to as a communication pipe.

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- The crux of the matter is that the company was prepared to carry out the works to remedy the problem then decided against it when it realised how long the pipe involved is, leaving her with a potential cost of £21,000 to remedy the problem.
- She wants the company to resolve the low pressure issues by honouring its agreement to carry out the works scheduled to start on 22 September 2021 at its own cost.

The company's response is that:

- The customer reported low water pressure at her home, so it undertook pressure checks on the network and found that the pressure on the supply from the main to the external stop tap is satisfactory.
- It has confirmed that the customer is on a shared supply and, by the customer's own admission, the pressure at her property drops when the nearby farm uses large amounts of water.
- As the customer's clean water provider, it is responsible for the water pressure up to the external stop tap, but after that the pipes are privately owned and the responsibility of the property owner.
- In view of this, it advised the customer that it is her responsibility to replace the supply, or split the old supply from the farm to increase the pressure. Therefore, it denies responsibility to replace the customer's supply pipe.

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.

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How was this decision reached?

1. The customer says that the pipe from the main to her property is a company-owned communication pipe to four stop taps in a chamber in her driveway, and her supply is not shared with the farm as its owners installed their own supply from the main a few years ago. Therefore, the customer says that it is the company's responsibility to resolve the low pressure issue she experiences, as it had planned to do in September 2021.
2. The company says that the pressure at the customer's boundary exceeds the minimum requirement, and the low pressure experienced by the customer is caused by an issue on the private supply pipe from the external stop tap to the customer's property. Therefore, the company denies responsibility to replace the supply. The company also says that the private supply is shared with the nearby farm and possibly other properties, and this is evidenced by the customer's assertion that her pressure drops when the farm uses large amounts of water.
3. In order for the customer's claim to succeed, the evidence must show on the balance of probabilities that the company owns the pipe from the external stop tap to the customer's property, the pressure in that pipe does not meet the expected standard, and the company's refusal to replace it amounts to a failure to provide its service to the standard reasonably expected by the average person. If the evidence shows that the company has failed to meet the expected standard in this regard, I will need to consider whether I have the power to direct the company to replace its asset under the WATRS Scheme Rules.
4. Having reviewed the evidence provided by CCW and the company, including the mapping and the job notes, I accept that, on the balance of probabilities, there is a short communication pipe from the main to the customer's external stop tap, and the pipework after the external stop tap is a private supply.
5. The company says that the supply is most likely shared and as the logger readings show no significant dips in pressure on the main at the boundary box, but the customer experiences intermittent periods of low pressure, I accept that this is a reasonable assumption. The evidence does not demonstrate which properties share the customer's supply but, in any event, whether the supply is shared or not, I accept that it is private and therefore it is not the company's responsibility.

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6. However, the communications between CCW and the company demonstrate that the company agreed to replace the supply pipe as a gesture of goodwill because the company made a mistake and believed that the pipe was sixteen metres long rather than one hundred and sixteen metres long. The evidence does not clearly show whether the customer was told that the work would be carried out as a gesture of goodwill and that the company was not legally obliged to do it, but does demonstrate that when the mistake about the length of the supply pipe was discovered, the company changed its mind about completing the work. It is unfortunate that the company made this mistake as I have no doubt that it would have contributed to the customer's frustration and disappointment, especially if she did not understand that the work was agreed as a gesture of goodwill only. However, I do accept that the company was entitled to change its mind as it has no obligation to carry out work on private pipework.
7. As the evidence shows that, on the balance of probabilities, the pipework from the customer's external stop tap is privately owned, the company has not failed to provide its service to the standard reasonably expected by the average person by refusing to replace it. Therefore, while I appreciate that my decision is not what the customer hoped for, the customer's claim does not succeed.
8. Following the preliminary decision, the customer made some comments. I reassure the customer that I considered most of the points raised during my adjudication and, unfortunately, I am unable to direct the company to carry out a further site visit as the customer did not ask me to do this in their application form. In any event, the evidence shows that on 10 August 2021 the company attended the customer's property, located the boundary box and found that the pipework causing the low pressure was private. The notes provided by the company suggest that this was explained to the customer, and the boundary box's grid reference is provided in the job notes. Also, as the company has established that the supply is private, it is not responsible for establishing whether the private supply is shared, or which if any properties share it. In view of this, while I have noted the comments the customer has made about inheriting the problem and the high cost of the work, and I understand the very difficult situation the customer is in, my decision remains unchanged.

Outcome

The company does not need to take any further action.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 30 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.

K S Wilks

Katharine Wilks

Adjudicator

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