

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X320

Date of Decision: 10 February 2023

Complaint

The customer says she has been incorrectly billed by the company for repairs required by damage caused by a neighbour.

Response

The company says that the customer has been billed correctly in accordance with Section 75 of the Water Industry Act 1991.

The company has previously removed £1,000.00 from the customer's bill.

Findings

The company has provided its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 10 March 2023 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X320

Date of Decision: 10 February 2023

Party Details

Customer: XX

Company: XX

Case Outline

The customer's complaint is that:

- Construction work undertaken on a neighbouring property caused damage to the water pipe feeding the Property.
- This damage resulted in further damage to the pipe due to an increase in water pressure.
- The company has billed her for the repair work undertaken, despite acknowledging her neighbour was responsible for the damage.
- She requests that the company write off the bill.

The company's response is that:

- The customer was billed in accordance with Section 75 of the Water Industry Act 1991.
- Proper notification was served under Section 75, but no private repair was carried out.
- The company says that the customer has been billed correctly.

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.

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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?

How was this decision reached?

1. The customer's complaint relates to work undertaken by the company under Section 75 of the Water Industry Act 1991. Under Section 75, where water is being "wasted" the company may serve notice on a customer requiring the customer "to take such steps as may be specified in the notice as necessary" to stop the wastage. If the customer does not take the steps specified in the notice, the company is empowered to "take those steps itself".
2. Both parties acknowledge that there was a leak on the supply pipe leading to the Property, and the customer has not denied that a notice to undertake work on the pipe was served, but that the leaks were not repaired.
3. While the company describes Section 75 as allowing a notice to be served on "the consumer of water or property owner", Section 75 is clear that a notice may only be served on the "consumer", not the "owner". Nonetheless, the evidence justifies a conclusion that the notice to undertake work and the bill for work undertaken by the company were initially served on the customer's tenant, the "consumer". A bill was only issued to the customer because she requested that responsibility for the bill be transferred from her tenant to her.
4. The customer emphasises that the damage to the pipe was ultimately caused by her neighbour, rather than by herself or her tenant. However, even accepting that this is true, Section 75 does

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not permit the company to invoice the customer's neighbour for the work undertaken. Under Section 75(2) of the Act, a notice to perform work may be served only "on the consumer", and under Section 75(9) where the work specified in the notice is not performed privately by the date specified in the notice, the company may undertake the work itself and then recover "any expenses reasonably incurred" from "the person on whom the notice was served", namely the "consumer".

5. As there is no dispute that the notices were served on the customer's tenant, with responsibility subsequently assumed by the customer, the only question is whether the customer's neighbour constituted a "consumer" under Section 75(2).
6. Section 150B of the Act clarifies that a "consumer" with respect to charges/bills issued by a water company is "a person who is for the time being the person on whom liability to pay charges to the undertaker in respect of that supply of water would fall". While Section 150B does not directly reference Section 75, this is consistent with Section 75(11), which describes a "consumer" as being "the person in respect of whom the supply is made".
7. It is, though, undisputed that the customer's neighbour was not supplied by the pipe that was damaged. As a result, the customer's neighbour was not a "consumer" under Section 75, and so cannot be billed by the company.
8. It should be acknowledged that just as the company relied on the customer's consent to bill her, despite the customer also not being a "consumer" under Section 75, the company may bill the customer's neighbour if the customer's neighbour consents to assume responsibility for the bill, as the customer has done. However, no evidence has been provided that this has occurred, and so the company does not have the authority to bill the customer's neighbour, rather than the customer.
9. It should also be acknowledged that Section 75 does not prevent the customer bringing a claim directly against her neighbour to recover from her neighbour the costs she must pay the company, although I make no finding whether such a claim would succeed, since it is not currently before me.
10. In her comments on the Proposed Decision in this case the customer reiterated her concern that she was being left liable for the cost of repairs to damage that she did not cause. As discussed

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above, the law does not leave the customer without remedies, however those remedies do not lie against the company, for the reasons discussed.

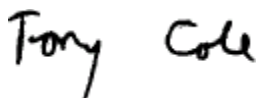
11. For the reasons given above, I must find that the customer has been properly billed by the company, and so the customer's claim does not succeed.

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 10 March 2023 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.



Tony Cole FCI Arb

Adjudicator

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