

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/XX/X333

Date of Final Decision: 23 February 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer submits the company has overcharged his business for wastewater for the past 15 years yet refused to provide a full refund. It also delayed dealing with his complaint. He seeks the company provide a full rebate of charges.

Response

The company says it liaised with the wholesaler who agreed to a rebate backdated to November 2020 in line with its policy. This is the wholesaler's decision to make. It denies the claim.

Findings

The evidence shows the company did not provide its services to the standard to be reasonably expected when liaising between him and the wholesaler

Outcome

The company should pay the customer compensation in the sum of £250.00 for distress and inconvenience.

The customer must reply by 23 March 2023 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- Since March 2010 he has had a contract with **XX** for his business to discharge a maximum of 1 cubic meter of wastewater per day.
- However, in March 2020, he found he had been charged based on discharging 9 cubic meters per day over the last 15 years.
- When he complained to the company it was slow to deal with his complaint and then provided a partial refund only.
- He seeks that the company provide a rebate of charges backdated to March 2010.
- In comments on the company's response he says since submitting his claim to WATRS the company has imposed excessive penalty charges for non-payment of bills. He had a contract with the wholesaler that limited the amount of wastewater discharged yet, despite this, the company charged in excess of this limit. This was unfair.
- In comments on a preliminary decision the customer said:
 - It appears he has no recourse against the wholesaler through WATRS and queries if there is an alternative to the courts.
 - He queries if there is a way to address the recent penalty charges rather than him spending time raising a new complaint or going to court.

The company's response is that:

- The customer queried his charges in March 2020 and it raised this with the wholesaler **XX**
- In April 2020 the wholesaler said they could not review the customer's unmeasured tariff. However, the customer could request the company fit a meter and then be placed on metered billing. It relayed this to the customer.

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- The customer did not request a meter until 24 August 2020 and this was then installed on 28 November 2020.
- The customer continued to dispute his charges and sought a refund. In September 2021 it passed this to the wholesaler.
- In October 2021 the wholesaler amended the customer's charges backdated to 28 November 2020. It said it could not provide a rebate for the period before a meter was fitted.
- The customer remained unhappy and the company put this back to the wholesaler but its decision remained the same.
- It denies the claim.

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. In order to make a decision in this matter I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case,

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has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.

2. As it was the wholesaler's decision to limit the customer's rebate on wastewater charges to 28 November 2020, it is not within my remit to comment on this. I also cannot say what the customer should or should not have been charged, on the basis of his agreement with the wholesaler. I can only consider whether the retailer acted properly in sharing the customer's complaint with the wholesaler and relaying any responses.
3. On review of the information provided by the parties, I am satisfied the company properly liaised between the customer and the wholesaler; however, there was some delay on its part. In particular, there was a lengthy delay in it passing the customer's complaint to the wholesaler from 28 November 2020 to September 2021. I therefore find that the company failed to provide its services to the standard to be reasonably expected in this regard.
4. As to the customer's claim for a further rebate, I find this remedy is not justified by my decision. This is because the company is not responsible for deciding the rebate and its delay did not affect the rebate the customer received. However, under WATRS rule 6.3, if the adjudicator finds that the customer's claim succeeds in full or in part, I can direct the company to provide any of the remedies specified in Rule 4.3.3 whether claimed or not. Bearing this in mind, I consider it fair and reasonable to direct that the company pay the customer compensation in line with a tier 2 payment under the WATRS compensation guide. This is because the customer was put to distress and inconvenience over a long period due to the company's delay. I therefore direct the company pay the customer compensation in the sum of £250.00.
5. In accordance with WATRS rule 5.4.3 I must disregard any new matters raised in the customer's comments on the company's response. I will therefore disregard the customer's complaint about penalty charges imposed by the company since his WATRS application. However, for completeness, I will say that it is good practice for a company to pause collection action during the adjudication process but it is not obliged to do so.
6. I have considered the customer's comments on my preliminary decision though these do not affect my findings. WATRS is not an advice giving body and so I cannot advise the customer how to pursue any complaint against the wholesaler. Similarly I cannot advise how the customer

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should pursue any complaint regarding the penalty charges save that WATRS cannot consider a complaint until it has completed the CCWater complaints process.

Outcome

The company should pay the customer compensation in the sum of £250.00.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 23 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.



J Mensa-Bonsu LLB (Hons) PgDL (BVC)
Adjudicator

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