

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X354

Date of Decision: 4 February 2023

#### Complaint

The customer says that he has not been paid compensation promised by the company, and he has experienced poor customer service.

#### Response

The company says that the customer has been paid the compensation to which he is entitled.

The company has paid the customer compensation of £30.00.

#### Findings

The company failed to provide its services to the customer to the standard to be reasonably expected by the average person with respect to the 18 July 2022 letter.

#### Outcome

The company needs to take the following further action: It must pay the customer compensation of £50.00.

The customer must reply by 6 March 2023 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X354

Date of Decision: 4 February 2023

## Party Details

**Customer:** The Customer

**Company:** The Company

## Case Outline

### **The customer's complaint is that:**

- In July 2022 he was affected by a widespread water outage.
- He did not have water for over 48 hours, from approximately 1pm on 16 July 2022 until approximately 2pm on 18 July 2022.
- He had a 15 month old baby at the time and had to seek water elsewhere.
- He had scheduled someone to work on his shower, and had to reschedule them.
- The company has only agreed to pay £30.00, arguing that a data logger recording indicates that he was without water for less than 6 hours.
- He requests that the company apologise and increase the level of compensation to £150.00, the amount given in a letter issued just after the outage for customers who lost water for over 24 hours.

### **The company's response is that:**

- The customer's area was affected by a water pressure incident commencing 16 July 2022 and ending 18 July 2022 after work undertaken by the company to restore pressure.
- Affected customers were told that they would receive a payment of £30.00 for "every 12 hours their supply was interrupted" or £150.00 if they were "off supply" for more than 24 hours.
- The company's monitors indicate that the customer's water supply was not off for a period exceeding 12 hours.
- The customer has been paid the £30.00 to which he is entitled.

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- This payment exceeds the amount the company was formally required to pay the customer.
- The company has already apologised to the customer for the interruption he experienced to his water supply.
- The company denies that the customer is entitled to additional compensation.

### 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. While both parties agree that the customer experienced a loss of water, they differ regarding the duration of that loss. The company relies upon water pressure data from its monitoring systems, but acknowledges that this data is not directly for the Property, and may not accurately reflect the water pressure at the Property ("This, however, does not always reflect the customer's experience and every property will be different based on their position, length of service pipe and internal plumbing", Company Exhibit 10). Nonetheless, absent explicit contradictory evidence, the company's data at least creates a presumption that it accurately reflects the water pressure available at the Property.

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2. This is important because while the customer has described his experiences, he has provided no direct supporting evidence of the sustained loss of water that he describes, even in the form of circumstantial evidence such as evidence of water purchases or evidence of communications with third parties at the time of the outage. Circumstantial evidence of this nature could not override direct evidence of the water actually supplied to the Property, but might potentially be persuasive given the limitations to the company's own evidence.
3. In his comments on the Proposed Decision in this case, the customer argues that while he has produced no evidence to support his account, this is also true of the company. However, while the evidence produced by the company is inferential, rather than direct, it is nonetheless evidence in support of its position. Moreover, the law requires that disputes be decided in accordance with "burdens", with the customer having the "burden" of producing evidence to support the claim. This means that if the evidence provided by the parties is evenly balanced between the accounts of the two parties, or is otherwise insufficient to justify a conclusion that the customer's account is more likely than not correct, then the customer has failed to meet the burden and the claim cannot succeed. This evaluation must be made based on the evidence actually provided by the parties, not based on unsupported speculation by the decision-maker regarding what may or may not have happened.
4. Ultimately, as argued by the company, the company has fulfilled its legal obligations with respect to paying the customer compensation, even if the customer's own account is correct, and no evidence has been provided that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person with respect to restoring water supply at the Property.
5. However, on 18 July 2022, the company contacted the customer, amongst others, promising a payment of £150.00 for all customers who were "off for more than 24 hours". While the company argues that this statement referred to an "industry" level of water pressure rather than "full pressure" and that even a momentary achievement of that "industry" level would "reset" the clock on the 24 hour period (Company Exhibit 10), no indication of this approach was included in the letter sent to the customer.
6. I find that it constituted a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person to expressly promise compensation to customers in vague everyday language, while not disclosing that when deciding whether to

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pay compensation it would apply a standard that might result in customers not receiving compensation despite not having reliable access to water for an extended period (“While you may not have had water when you wanted to use it, it does not mean that it wasn’t available at some point when not in use”, Company email to customer of 24 November 2022).

7. As explained above, the available evidence is not sufficient to justify a conclusion that the customer did indeed meet the voluntary standards for compensation intended by the company in its 18 July 2022 letter, and so the customer cannot be awarded the additional £120.00 that he claims.
8. However, I have found that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person with respect to its communications with the customer, which reasonably led to the customer to expect a higher level of compensation than the company would ultimately pay, and also resulted in the customer spending time pursuing his claim against the company. Clearer and more accurate communication by the company of the standards it intended to apply when awarding compensation would have avoided these problems.
9. In consultation with the WATRS Guide to Compensation for Inconvenience and Distress, I find that fair and appropriate compensation would consist of £50.00. This amount reflects the inconvenience that I accept the customer experienced, but also that the evidence shows the company responding to the customer’s complaint with appropriate attempts to clarify the standards it had used.
10. The customer also requests an apology for the customer service he has experienced. However, while I accept that the customer was unhappy with the responses he received from the company, I find that the evidence shows the company responding appropriately to the customer’s complaint. As a result, I do not find that an apology is required.
11. For the reasons given above, the company must pay the customer compensation of £50.00.

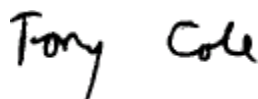
#### **Outcome**

The company needs to take the following further actions: It must pay the customer compensation of £50.00.

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### What happens next?

- This adjudication decision is final and cannot be appealed or amended.
  - The customer must reply by 6 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.
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**Tony Cole, FCI Arb**

**Adjudicator**

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