

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/X487

Date of Decision: 18 May 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer has a dispute with the company regarding its refusal to remove a default notice and late payment markers off his credit history file. The customer says that he suffers long-term mental health problems that were made worse during the COVID pandemic, and he was unable to work. The customer believes that the company discriminated against him by entering the default whilst he was unfit to work. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore he has brought the claim to the WATRS Scheme and asks that the company be directed to remove the negative markers from his credit history file.

Response

The company states that it makes all customers aware that it will share their data with credit reference agencies and confirms that the entries on the customer's credit history file are a correct record of his payment history. The company states that it has acted within the procedures of its data sharing arrangements. The company has not made any formal offer of settlement to the customer and declines to remove the negative markers from the customer's credit history file.

Findings

The claim does not succeed. I find that the evidence does not support that the company acted in error when placing the negative markers on the customer's credit history file. The evidence establishes that the customer's Direct Debit was cancelled, and he did not respond to the numerous items of correspondence sent to him by the company. I am satisfied that the customer's outstanding account balance was ongoing for several months. I find that the evidence shows that the company has provided its services to a reasonable level and has managed the customer's account to the level to be reasonably expected by the average person.

Outcome

The company does not need to take further action.

The customer must reply by 15 June 2023 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- He has experienced an ongoing dispute with the company concerning issues with billing on his account. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- He suffers with long term mental health problems, and during the Covid pandemic became suicidal. Because of his mental health condition, he has been unable to work.
- Consequently, he was not able to pay a bill of £45.00 issued by the company that resulted in it placing a default marker on his credit history file. The customer states that the company placed six additional late-payment markers against the outstanding bill.
- He believes the company acted in an unethical manner by placing the default marker during the pandemic.
- Other utility companies did not act in the same manner as the company during the pandemic.
- The company was aware of his medical condition and therefore its actions towards him are discriminatory.
- Believing the company had not properly addressed his concerns he, on 07 February 2023, escalated his complaint to CCWater who took up the dispute with the company on his behalf.
- The records show that CCWater contacted the company on 27 February 2023 to request its version of events.
- On 07 March 2023, the company responded to CCWater and confirmed that it had correctly followed its debt collection procedures and that the entries on the customer's credit file were an accurate record of his payment history. The company confirmed that it would not recall the default notice or remove the late payment markers.
- On 15 March 2023, CCWater advised him that the company had responded to it and CCWater concluded that this was the final position of the company, and it could not take any further measures to have the company change its position and was thus closing his case.

- Continuing to be dissatisfied with the response of the company he has, on 17 March 2023, referred the matter to the WATRS Scheme where he requests that the company be directed to remove the default notice and late markers from his credit history file.

The company's response is that:

- It provided its response to the claim in its package of documents submitted on 04 April 2023.
- It explains that customers are advised that it shares information with Credit Reference Agencies on a monthly basis.
- It confirms that on 01 July 2021 the customer's Direct Debit had been cancelled. The company says it sent bills and letters to the customer about the outstanding balance on his account, but received no response. Consequently, a default notice was raised on 28 March 2022.
- It acknowledges that the customer cleared the outstanding balance on 13 July 2022, and that on 18 November 2022 he requested the default and negative markers be removed from his credit history file. The company advised him that the markers were correctly raised and would not be removed.
- Assistance is always available for those customers facing difficulty in paying their bills, but the onus rests with the customers to contact the company.
- In summary, it says that it correctly shared with Credit Reference Agencies the customer's payment performance and thus will not remove the default notice and late payment markers.

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 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 dispute relates to the customer's dissatisfaction that the company has refused to remove a default notice and negative markers from his credit history file.
2. I note that the WATRS adjudication scheme is an evidence-based process, and that for the customer's claim to be successful, the evidence should show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I take note that the customer has not submitted any evidence in support of his claim, except for copies of a few e-mails he sent to the company.
4. The customer acknowledges that he was unable to pay a bill issued by the company. The customer, in his submission to CCWater and in his application to WATRS, states that the outstanding amount was £45.00. However, I can see from the evidence submitted by the company that the default notice was raised in the amount of £88.81.
5. I can see that the customer settled the outstanding balance on 13 July 2022, but subsequently has again incurred an outstanding balance of £45.44 and the company issued a Final Notice to Pay on 23 December 2022.
6. I accept that the company has explained that it advises all customers that their data will be shared on a monthly basis with Credit Reference Agencies. Such data incorporates payment history, including late payments, and defaults raised.
7. I can see that the evidence shows that the customer's Direct Debit mandate in favour of the company was cancelled on 01 July 2021.
8. I can further see that the company sent numerous letters and bills to the customer's address but did not receive a response from the customer, and I see no evidence that the customer made any payments to the company prior to the raising of the Default Notice on 28 March 2022.
9. Overall, I find that the company has acted within the procedures of its data sharing policy with Credit Reference Agencies when it raised the default notice and late payment markers.
10. The customer asserts that he missed payments because of his long-term mental health condition and, in his communication of 15 March 2023 to CCWater, that the company was aware of his condition and did not make any reasonable adjustments in respect of his account.

11. I do not see any evidence to establish that the customer had made the company aware of his condition, and my reading of the company's communications leads me to understand that it was not aware of the customer's mental state.
12. In his application to the WATRS Scheme the customer seeks to have the company remove the negative markers and default from his credit history file. However, I do not find that the evidence or the facts presented to me establish that there is any basis for the company to provide the remedy sought.
13. I have found that the company has acted within the limits of its data sharing procedures and the customer himself has accepted that his account had a long running outstanding balance.
14. I thus hold that the company is not liable to remove the negative markers or default notice from the customer's credit history file.
15. My conclusion on the main issues is that the company has not failed to provide its services to the standard to be reasonably expected by the average person, and the evidence does not confirm that the customer has been disadvantaged by the actions of the company.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 03 May 2023.
- The customer has, on 04 May 2023, responded to the Preliminary Decision.
- The customer reiterates his position that meter readings taken by the company were inaccurate and incorrect.
- The company has, on 11 May 2023, responded to the Preliminary Decision.
- The company confirmed it had no additional comments to submit.
- I am satisfied that the facts upon which the Preliminary Decision was based remain unchanged.
- Having read the responses of the parties I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

The company does not need to take further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 15 June 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.
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Peter R Sansom
MSc (Law); FCI Arb; FA Arb;
Member, London Court of International Arbitration.
Member, CI Arb Business Arbitration Panel.
Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
Member, CEDR Adjudication Panel.

Independent Adjudicator