

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X715

Date of Final Decision: 10 October 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer says the company failed to maintain its sewer pipes resulting in flooding to his property causing inconvenience and loss of earnings. He claims for the company to provide an apology and agree to properly maintain the sewers on his street.

Response

It provides a reactive service. Upon the report of flooding it carried out repairs, made a GSS payment and apologised to the customer. It denies the claim.

Findings

The evidence shows the company provided its services to the standard to be reasonably expected.

Outcome

The company does not need to take any action.

The customer must reply by 7 November 2023 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- In November and December 2022 sewage entered his cellar.
- He reported the second incident to the company.
- The company identified a crack in its sewage pipe which it repaired.
- He believes the company did not maintain its sewers properly. He was inconvenienced in having workmen attend and on some occasions not show up. He also had to stay home for visits which means he lost income. He sought compensation from the company but it refused.
- He seeks that the company provide an apology and agree to properly maintain the sewers on his street.
- In comments on the company's response the customer says the company's apologies have not been sincere. He called the company many times and it repeatedly refused compensation. He explains he had to stay home to open a gate for the company to enter the alleyway and he had to be home to allow his insurer and surveyor entry.
- In comments on a preliminary decision the customer says he does not accept the decision. He seeks a further explanation and notes the company previously said he could claim compensation.

The company's response is that:

- It has apologised to the customer for the sewage escape on many occasions and made a GSS payment.
- It did not tell the customer he needed to be home while it carried out repairs, all of which took place outside the property. And it has told the customer it does not compensate for loss of earnings.

- Due to the size of the network it attends incidents on a reactive basis. If works are required, they are carried out in a timely manner. It will always do what is reasonably expected and will raise for any work to be completed if it's necessary.
- 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. I accept it would not be possible for the company to regularly inspect every part of its sewer network, rather it is reasonable that it provides a reactive service.
2. There is nothing to suggest the company should have been aware of any defect in a sewage pipe near the customer's property until the customer brought the flooding to its attention. I find no evidence of a failing in this respect.
3. Both parties say the company fixed the pipe and made a GSS payment for the flooding. The company has also provided correspondence evidencing it apologised to the customer. I consider the company acted reasonably in doing so.

4. I accept on balance the customer may have chosen to stay home while the company's engineers attended, in order to allow access through a side gate. I also accept the flooding and later insurance claims caused the customer some stress and inconvenience. However I cannot hold the company responsible for any such loss or disadvantage unless these arose as a consequence of some failing by the company.
5. The evidence does not show the company has failed to properly maintain its network or that it failed to take action as it should have to prevent the flooding on this occasion. In the absence of evidence of a failing by the company, the customer's claim for a remedy is unable to succeed.
6. I have considered the customer's comments on a preliminary decision but my findings remain the same. It is usual practice for a company to suggest a customer submit a claim for compensation for its consideration. That does not mean it will accept the claim or make payment.
7. The customer is entitled to reject this decision and seek alternative means of redress if he wishes.

Outcome

The claim does not succeed.

The company does not need to take any action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 7 November 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.



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