

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X719

Date of Final Decision: 10 October 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer says the company failed to reinstate his garden for 12 months following works. He seeks a sincere apology, £500.00 for a damaged carpet; £1000.00 for a missed appointment; £1000.00 for health and safety issues; and £1000.00 for storage of the company's equipment.

Response

It accepts it delayed reinstating the customer's garden. However, it considers it has already apologised and paid £350.00 as a goodwill gesture. It denies the claim.

Findings

The evidence shows the company failed to provide its services to the standard to be reasonably expected because it delayed reinstating the customer's garden for 12 months.

Outcome

The company should pay the customer compensation in the sum of £650.00 for distress and inconvenience.

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:

- On 7 April 2022 the company carried out works in his back garden. He was abroad at the time and had no notice of the works.
- On return he found the works incomplete and his garden in an unusable condition.
- He notified the company however the company did not reinstate his garden until April 2023.
- He seeks a sincere apology, £500.00 for a damaged carpet; £1000.00 for a missed appointment; £1000.00 for health and safety issues; and £1000.00 for storage of the company's equipment.
- In comments on the company's response the customer says:
 - The company did not give him notice of works or gain his consent.
 - He contacted the company a number of times in April 2022 to complain about the state of his garden.
 - The company first attended in February 2023 but left without completing the works.
 - The company used a fabric sheet to cover his floor but this allowed water and mud through.
 - He has suffered distress and inconvenience.
- The customer made no comments on a preliminary decision.

The company's response is that:

- There was a leak on a shared supply pipe in the customer's garden which it repaired free of charge in April 2022 following permission from the freehold owner of the property. However, it overlooked reinstating the garden.
- In October 2022 the customer called to say his garden required reinstatement. He called again in January 2023 as this had still not been done.
- It attempted to complete the reinstatement in March 2023 but could not gain access. It tried again in April 2023 and completed the works.

- It wrote to the customer apologising that his garden was left in an unusable condition for 12 months. It also offered £150.00 as a goodwill gesture.
- The customer refused its offer and sought compensation of £3500.00.
- It sent the customer an additional £200.00 by cheque to settle the matter.
- The customer refused this in settlement though cashed both cheques.
- It has provided photos to show the customer's carpet was covered in a sheet and notes no evidence of damage has been provided. It denies missing any appointment. It did not store tools at the customer's property. It left health and safety barriers around the excavation for safety reasons. It considers the customer should have made contact sooner and more frequently to remind it to complete the works.
- It has paid appropriate goodwill gestures and so 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 consider it unlikely the company would have carried out works without the freeholder's permission which it says it gained. I do not consider the company was otherwise obliged to give notice to the customer.
2. The company accepts it did not reinstate the customer's garden for a period of 12 months. This is evidence it failed to provide its services to the standard to be reasonably expected.

3. The company has provided a copy of its complaint response to the customer evidencing it has already apologised. While the customer considers this insincere, I cannot dictate the wording of any apology or direct the company to do more than it has. Therefore, the customer's claim for a further apology is unable to succeed.
4. The customer has not provided any evidence of damage or, crucially, any evidence of lasting damage to his carpet such as photos or an invoice for repair or replacement. Further I am satisfied on balance that any mud would not cause lasting damage. I therefore find the customer has not justified his claim for compensation for a damaged carpet.
5. The customer says the company missed an appointment but this is not supported by any documentary evidence and the company denies this. Where it is one party's word against the other, I cannot say, even on balance, what is more likely than not to have happened. I therefore cannot find a failing by the company in this regard or consider a remedy.
6. The customer seeks payment for health and safety issues, but he has not explained what these were. I accept the customer could not access his garden for the period and I will consider compensation for this below. The customer's claim for payment due to health and safety issues is otherwise not justified and does not succeed.
7. The customer also seeks payment for storage of the company's equipment. By this I consider he refers to the barriers left by the company. However, I consider this part and parcel of the fact the company left the customer's garden unusable and I have considered compensation for this below. I do not otherwise consider compensation is justified for storage.
8. It is not in dispute that the company left the customer's garden unusable due to the excavation, rubble and safety barriers that remained for 12 months. Irrespective of whether the customer contacted the company in April, it was for the company to complete the works and it was not the customer's responsibility to remind it to do so. As to any loss or disadvantage suffered by the customer, I accept that he and his family could not use their garden for up to 12 months and that this caused distress and inconvenience. I consider a tier 3 payment under the WATRS compensation guide is warranted given the length of time the matter was ongoing and the impact to the customer. I have taken account the company has already paid £350.00 as goodwill gesture. In doing so I consider it fair and reasonable to direct the company to pay an additional £650.00 to the customer as compensation for distress and inconvenience.

Outcome

The claim succeeds in part.

The company should pay the customer £650.00 in compensation for distress and inconvenience.

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.
- 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