

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0657

Date of Decision: 16 February 2018

Complaint

The customer submits the company left the pavement in front of her property in a poor condition following works done in relation to a neighbouring property, and caused damage to her lawn and front path.

Defence

The company denies that it caused damage to the customer's property but acknowledges that it did not leave the public footpath outside the customer's property in a standard to be reasonably expected and that the customer had to contact it numerous times. The company stated that it had already paid the customer £100.00 as a gesture of goodwill for the stress and inconvenience caused.

Findings

There was no substantive evidence to show that the company had caused damage to the customer's property. The customer had also not given the company the opportunity to investigate and address the complaint about the front path. The company took appropriate action by clearing and cleaning the public footpath following the customer's complaint. The amount paid by the company as compensation for stress and inconvenience is fair and reasonable in the circumstances.

Outcome

The company does not need to take any further action.

The customer must reply by 16 March 2018 to accept or reject this decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0657

Date of Decision: 16 February 2018

Party Details

Customer: ██████████

Company: ██████████

Case Outline

The customer's complaint is that:

- The company dug a hole in the pavement up against her front wall to find a stopcock for No. 9 which is six houses away from her. Nothing was found so it left the hole open overnight with barriers around it but no lights. She contacted the company the next morning asking it to fill in the hole, which it did, but it left the barriers up against her wall, so she called it again to take the barriers away.
- In the meantime, she noticed a big footprint/burn mark on her lawn. She also noticed oil on the pavement which she was carrying up her front path to her front door. She had to contact the company yet again. The company attended the property to power hose the front of the property. The company's representative started this work at the end of the day and the light was fading. When she looked in the morning, she discovered that the company had damaged her front stone path.
- The customer's application form indicates that she is requesting £150.00 to £1,000.00 compensation to address damage to the front path.

The company's response is that:

- It was carrying out essential work at a neighbouring property which required access the external stop tap. It believed the stop tap was buried in the public footpath outside the customer's property. To locate it, it needed to excavate the public footpath. This work was undertaken on 30 October 2017, with the final reinstatement completed 8 November 2017.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- After the excavation and before the final reinstatement, the customer made it aware that it had not left the public footpath outside her property in a condition she would have expected. The customer made several calls to it to escalate the issue. Its inspector visited the customer to assess the situation. He apologised and arranged for the area concerned to be cleaned, as well as arranging to pressure wash the wall at the front of the property, as per the customer's request. It offered the customer £30.00 as a gesture of goodwill for the inconvenience in having to contact it.
- After its inspector left the property, the customer contacted it again to inform it that she had noticed a patch of grass on her lawn was marked, she believed this was a result of its work. The customer requested it increase its goodwill offer. It arranged to visit the property to assess the alleged damage to the lawn and although it found no obvious damage, it agreed to make an additional payment to the customer as a gesture of goodwill, taking its payment to a total of £100.00. It explained that this goodwill payment was for inconvenience and distress it may have caused as a result of its work, as well as the customer having to contact it numerous times. It issued a cheque to the customer which was cashed on 21 November 2017.
- It was disappointed to receive the customer's complaint from the Consumer Council for Water ("CCWater"), which listed the lawn and customer service issues as unresolved, particularly as the customer had initially accepted its apology and payment for recompense. The complaint also included a new issue, an allegation of damage to the garden path. As this had not been raised previously, it offered to meet with the customer at the property to investigate the alleged damage. The customer has declined its offer to visit the property to investigate and as such, it has no reason to believe it needs to increase its payment of £100.00.

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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

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 must remind the parties that adjudication is an evidence-based process where the burden of proof rests on the claimant, in this case the customer, to prove her case on the balance of probability.
2. Submissions made without supporting evidence are unlikely to be accepted as proven.

Alleged damage

3. No substantive evidence has been provided showing damage to the customer's lawn. The customer has therefore not shown that the company failed in its obligations to her in relation to her lawn.
4. The customer has submitted a photograph in evidence in relation to her claim for the front path. This photograph is not dated and has been taken at so close an angle it is unclear what exactly is depicted, and where the image depicted in the photograph sits in relation to the customer's property. No further photographs or any substantive evidence of the alleged damage has been provided. Nor is there any substantive evidence to show that the company was the cause of any alleged damage.
5. I am also particularly mindful of the company's submission that the complaint in relation to the front path was only raised via CCWater and that the customer has declined its offer to visit the property to investigate the alleged damage. I must remind the parties that under the WATRS Rules, WATRS cannot deal with a complaint which has not been first raised directly with the company and exhausted the company's complaints procedure. A company must be given an opportunity to investigate and address any complaints.
6. Therefore although I note the quote from the local stonemason submitted by the customer, in the absence of any substantive evidence showing the damage; that the company caused the damage; and that the company was given the opportunity to investigate and address the matter

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

complained of, the customer has not shown that the company failed to provide its services to the customer to the standard to be reasonably expected in relation to the front path.

Customer service

7. Notwithstanding the above, the company acknowledges that it did not leave the public footpath outside the customer's property in a standard to be reasonably expected. The company also acknowledges that the customer had to contact it numerous times. The company arranged for the area to be cleared and cleaned and has also paid the customer £100.00 in compensation for the stress and inconvenience caused. Having carefully considered the matter, I am satisfied that the company's action and the amount paid in compensation for stress and inconvenience is fair and reasonable in the circumstances.
8. Consequently, in view of all of the above, the customer's claim is unable to succeed.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 16 March 2018 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.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.



**Uju Obi LLB (Hons) MCI Arb
Adjudicator**

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watsr.org