

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0696

Date of Decision: 21 March 2018

#### Complaint

The customer states that the company has not taken adequate account of his disabilities with respect to how it has billed him for water services, and with respect to its attempts to recover unpaid charges.

#### Defence

The company states that the customer has been billed correctly, and that it has at all times treated the customer fairly and appropriately.

#### Findings

This dispute cannot be adjudicated at WATRS as it has been the subject of court proceedings.

#### Outcome

The company does not need to take any further action.

The customer must reply by 20 April 2018 to accept or reject this decision.

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

- The customer's dispute has been addressed in court proceedings, and thus cannot be considered under the Water Redress Scheme.
- The customer has been charged correctly, and it is unable to accept a reduced payment.
- It denies that it has been deficient in its treatment of the customer.

### **The customer states in his comments on the company's response that:**

- The company has breached the Equality Act 2010 by treating him the same as all its other customers.
- The dispute would not have gone to court if the company had tested his meter as he requested.

### **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.

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. Under Rule 3.5 of the 2017 edition of the Water Redress Scheme Rules, "The Scheme cannot be used to adjudicate disputes...on which a court has ruled unless the court's decision has been set aside".

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2. Both parties acknowledge that this dispute has been the subject of a court case in which the court has ruled, and neither party has argued that the court's decision has been set aside.
3. While the precise claim being raised in the present dispute may not be identical to the precise claim addressed by the court, Rule 3.5 is drafted broadly to refer to the underlying "dispute", rather than to specific claims. I therefore find that as the underlying dispute has been the subject of court proceedings, Rule 3.5 applies.
4. Consequently, the customer's claim does not succeed, as it cannot be adjudicated at WATRS. However, it must be emphasized that this holding reflects solely the limitations of WATRS, and does not reflection an evaluation of the validity or otherwise of the claims of either party.
5. Having reviewed the case file, I note that there is no record of the company raising an objection to the validity of this application in accordance with the procedure set out in Rule 5.3. As the company failed to raise an objection, the matter proceeded to adjudication and it was necessary for a decision to be issued. Had the company raised an objection under Rule 3.5, I have no doubt that the dispute would have been identified as having previously been the subject of court proceedings and removed at an earlier stage.

#### **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 20 April 2018 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.

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- 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

**Tony Cole, FCI Arb**

**Adjudicator**

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