

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0950

Date of Decision: 26 October 2018

Complaint

The customer submits that his driveway has been damaged due to the time taken by the company in repairing a leak to the supply pipe. The repair work conducted to the driveway in 2016 left a dip in the drive. The customer submits that the company is responsible for this damage and requests an apology and the repair of his driveway.

Defence

The company submits that the leak under the customer's driveway was to the customer's private supply pipe. It repaired the leak under its Customer Side Leak policy. The customer is requesting a repair to damage that has been evident since, at least, 2014. The customer does not have any issue with the reinstatement work completed in the driveway. Even if damage was caused by the leaks, it is the customer's responsibility to repair the driveway.

Findings

The company will only be liable for damage caused by leaks where the leak is to pipework for which it is responsible. The leak was to the customer's private pipework and any damage caused by the leak would be the customer's responsibility. The company repaired this as a goodwill gesture in line with its Customer Side Leak policy. The cracking to the driveway was present in 2014. The evidence did not support that the company had caused any damage to the driveway.

Outcome

The company does not need to take any further action.

The customer must reply by 23 November 2018 to accept or reject this decision.

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Date of Decision: 26 October 2018

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The customer submits that the company damaged his driveway following work to repair a water leak in 2016. There were several issues of suspected leaks at the property and the company carried out several investigations and two repairs, one in 2016 and a second in February 2018. The customer submits that the driveway has been damaged by the company's "incompetence in failing to find their leak for over 16 months" from 4 October 2016 to 26 February 2018.
- The customer requests an apology and a repair to the damaged driveway.

The company's response is that:

- The company submits that there have been a number of leaks on the customer's private pipework which it has assisted him with locating and repairing. The customer's driveway has been cracked for a number of years. The company also has no liability for the repair of the private driveway, even if there has been damage caused by a leak, as the leaks identified and repaired were all on the customer's private pipework. The company denies the customer's claim.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

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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. The customer's claim is that the company has caused damage to his driveway. The customer has provided close-up photographs taken on 8 June 2018 of cracks to the driveway; in one photograph, a butter knife has been placed into the crack to demonstrate the scale.
2. The customer submits that the company is responsible for the cracks to his driveway on the basis that there was an extended leak to the pipework that was not found and repaired by the company for some months. As a result, this caused the driveway to become damaged.
3. In order to be liable for damage caused by a leak, the leak must be on pipework and equipment for which the company is responsible. Where a leak is to a customer's private pipework, the customer will be responsible for any damage caused by that leak. The reason for this is that a customer is responsible for the repair and maintenance of the private pipework that serves their property.
4. In this case, I find that the company can only be held liable for the cracks to the driveway in one of two ways. The first will be if the leak was to pipework for which the company was responsible. The second way is where the company's repair work directly caused the damage to the driveway. I will deal with each of these in turn.

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5. It is first necessary to determine whether it is the customer or the company that is responsible for the leaking pipework under the driveway.
6. The company has provided a link to its website which contains an explanation of what pipework it is responsible for and what pipework a customer is responsible for. The company is responsible for the water main and the connection to the outside stop tap fitted at the boundary of a customer's property. The customer will then be responsible for the pipework from the outside stop tap to the point of entry to their house, and for all pipework within their house.
7. I note that, in this case, the company has fitted an outside stop tap at the point of entry to the customer's house, next to his front door. I find that this stop tap was fitted by the company as part of remedial measures, and that it does not constitute the boundary stop tap. I am satisfied that this new stop tap has been fitted to the customer's private pipework. The customer is responsible for the pipework from the stop tap to the boundary of his property. I am satisfied that the customer is the party that is responsible for the repair and maintenance of the pipe below his driveway. I therefore find that the company cannot be held liable for any damage caused by a leak to the pipe below the driveway as it is not the owner of this pipe.
8. After the company fitted a water meter to the customer's property in March 2016, a number of leaks were found. These included issues within the customer's house and leaks to the pipework under the driveway. The company has conducted repairs to the pipework under the customer's driveway; however, I find that this was done under the company's 'Customer Side Leak' policy and that it does not demonstrate that the company is the owner or responsible party for that pipe.
9. Under the company's Customer Side Leak policy, the company will repair a customer's pipework free of charge, even though it is not responsible for that pipework. Whilst the company is not responsible for the pipework, I find that, where the company does undertake repair works, it must complete this work with reasonable care and skill. In view of this, whilst the company is not responsible for the maintenance of the pipework, it may still be liable for any damage to the driveway where the company causes this through its repair work.
10. The parties have provided me with various photographs of the driveway including historical photographs taken by Google Streetview in 2014. In reviewing these photographs, I find that it is

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easy to identify the area where the company excavated the driveway near the customer's front door. The driveway is cracked towards the edge of the driveway and diagonally towards the house.

11. The company's photographs taken on 1 November 2016 show the driveway in sufficient detail that it is possible to locate where the customer's photographs were taken. The cracked area shown in the customer's photographs is towards the side of the driveway where the concrete surface meets what appears to be tarmac.
12. In reviewing the photographs from 2014, I find that this same area of cracking is clearly visible. The crack travels diagonally from the edge of the driveway before turning towards the house to the right of the front door. In the later photographs, the crack can be seen travelling towards the house but stops at an area of fresh concrete. The new outside stop tap has been fitted in line with the crack in the middle of the fresh concrete.
13. I find that the photographs from November 2016 show that the surface of the driveway was not level at this time. The Google Streetview photographs from 2014, whilst not as detailed, show that the driveway was in a very similar condition at that time, appearing to be unlevel around the cracks.
14. From reviewing the evidence, I am satisfied that the cracks pre-date the work conducted by the company. I acknowledge the customer's submission that the cracks were made worse due to the time taken for the leak to be fully repaired. However, I am mindful that the pipework remained, at all times, the responsibility of the customer. The company was slow in identifying that there remained a leak on this section of private pipework, however this was due to there being a number of other leaks within the customer's property. Until these were repaired, it was not possible for the company to ascertain that a leak remained on the pipework under the driveway.
15. In view of this, I find that the evidence does not show that the company caused any damage to the driveway when conducting its repairs to the pipework. The pipework itself remains the responsibility of the customer. I find that the company has assisted the customer to identify and resolve all leaks to his private pipework. This was provided as a goodwill gesture and in line with the company's Customer Side Leak policy. In the event the customer was unhappy with the

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support provided by the company, he was able at all times to obtain the services of an independent plumber to investigate and resolve any leaks to his private supply.

16. I am satisfied that the company has provided the services and assisted the customer to the standard of a reasonable water supplier. I find that the leaks were, at all times, to pipework belonging to the customer, and that the company's repair works did not cause or exacerbate the cracks to the driveway. In view of this, 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 23 November 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.



Alison Dablin, LLM, MSc, MCI Arb

Adjudicator

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