

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT 1021

Date of Decision: 10 April 2019

#### Complaint

The customer states that he has had longstanding problems with rats at his property, which have been traced to the company's sewer. He seeks compensation of £1,624.00 for expenses incurred due to the rats and for distress experienced.

#### Defence

The company states that it is not liable to the customer for the consequences of rats in its sewers and that it responded appropriately once notified of the problem.

The company has paid the customer compensation of £100.00.

#### Findings

I find that the company has provided its services to the standard to be reasonably expected by the average person, given the content of the applicable law, by responding appropriately once it was notified of the customer's problems with rats.

#### Outcome

The company does not need to take any further action.

The customer must reply by 10 May 2019 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 1021

Date of Decision: 10 April 2019

## Party Details

Customer: [ ]

Company: [ ]

## Case Outline

### **The customer's complaint is that:**

- For several years he has been having problems with rat infestation under his floor boards.
- He has called the council about the issue at least three times in the 40 years he has lived at the property.
- Every time he calls the council it costs him a significant amount and results in him having to endure the smell of dead rats under his floor for several months at a time.
- He most recently called the council in March 2018.
- On 20 March 2018 the council identified that the problem was a missing rodding eye cap on a drain near his property.
- He keeps his house clean and never leaves food out, but has no control over rodents entering his property through open drains.
- The cap was not fitted until 18 April 2018.
- The problem seems to have been resolved by the cap being fitted.
- The rats have caused him and his family considerable expense and distress over the years.
- He seeks compensation of £1,624.00 for expenses incurred due to the rats and for distress experienced.

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

- The customer made contact on 20 March 2018 to notify it that he was having a problem with rats.

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- It had received no notification prior to this date from the customer or his neighbours that there were rodent issues in the customer's street.
- It had also received no notification from the council of rodent issues in the customer's street.
- Once notified, it arranged for bait to be left and scheduled a return visit for 10-14 days later.
- Visits were scheduled with the customer, and when he was not home a further visit was scheduled.
- A rodding eye cap was fitted to the sewer on 18 April 2018.
- This appears to have resolved the situation, as the customer has not subsequently repeated his complaint.
- The company has consistently explained to the customer that it is not liable to him and so cannot pay the compensation he claims.
- The customer was entitled to a payment of £50.00 for a missed visit.
- This payment was mistakenly processed as £100.00, but the company has voluntarily paid the customer the full amount despite the mistake.

**The customer's comments on the company's response are that:**

- He finds the offer of £100.00 to be insensitive and inadequate.
- He has not failed to keep any appointment made by mutual agreement with the company.

**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.

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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. As argued by the company, under the Prevention of Damage by Pests Act 1949, primary responsibility for addressing problems with rats rests with the local authority, including with respect to sewers.
2. This does not mean that the company has no responsibility with respect to rats, but under the Prevention of Damage by Pests Act 1949, the local authority is endowed with the power to compel individuals and entities to take “reasonable steps” “for keeping the land free from rats and mice”.
3. Once the company has been notified of the presence of rats, it must then respond to the notification to the standard to be reasonably expected by the average person. However, until that notification is given, the company has no liability for the impact of rats on its customers, even if those rats come from the company’s sewers.
4. It is understandable that the customer would find this situation to be displeasing, but it is the approach that has been adopted in law to manage the reality that rats will inhabit sewers. If the liability of water companies for the actions of rats was not limited to taking appropriate actions once they received notice of a problem, then either companies would not be willing to take on the responsibility for sewers or they would require substantially greater revenues, resulting in substantially greater costs for customers.
5. In the present case, while I fully accept the customer’s statement that he has been dealing with a rat problem for many years, and has contacted the council about this problem several times, no evidence has been presented that the company itself was notified prior to 20 March 2018.
6. The company then took actions that resolved the problem by 18 April 2018, less than one month later, and including a period of 10-14 days required to test for the presence of rats. I find that this constituted a reasonable period of time to address the issue.

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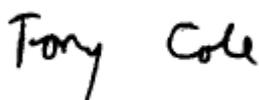
7. Consequently, while I fully acknowledge the substantial distress the customer will undoubtedly have experienced during the extended period of time he has been dealing with rats, the law does not allow compensation to be awarded for this distress, and I find that the company provided its services to the customer to the standard to be reasonably expected by the average person once it received notice of the problem.

#### 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 10 May 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.



**Tony Cole, FCI Arb**

**Adjudicator**

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