

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1064

Date of Decision: 21 January 2019

Complaint

The customer submits that it disputes the Chargeable Areas for surface water and highways drainage at its [] premises. The initial complaint was made on 25 March 2013 and is still not resolved. There are several parts to the Chargeable Areas. It disputes the calculation of its share of each of these. It has made many attempts to resolve the quantum of the Chargeable Areas, including two onsite meetings with [] (RST) staff, but RST has not altered its position. The customer requests that the company amend its bill and remove all additional charges imposed for non-payment, interest etc. The customer also requests that the company pay £1,000.00 compensation.

Defence

The company submits that it is the wholesaler's responsibility is to measure the customer's site and advise it on which banding the customer is to be charged. Its responsibility is to challenge RST on behalf of the customer if they think their banding is incorrect. It challenged this with the wholesaler and it has fulfilled its obligation. RST has visited the premises and confirmed that the measurements are correct. As this is a multi-occupied site, Site Area charges are also calculated by using information held by the Valuation Office Agency (VOA) such as Rateable Value (RV) for Highways Drainage charges. When the complaint was first received, the VOA had an RV rating of £5,100.00, which was applied on 1 January 2013, this was subsequently reduced a number of times and as of 1 April 2017 is £1,550.00. It has not received a new application for the charge bandings to be reviewed following this reduction or a further query to inform it that the VOA has been updated. If the customer would like the Site Area charges to be reviewed to take into account the latest VOA update he would need to complete a new application form as this may reduce the Highways Drainage charges. No offer of settlement was made.

Findings

The company and RST are separate entities. My remit is to determine the issues between the customer and the company. It falls outside of my remit to consider any claims against RST. The evidence shows that RST, and not the company, is responsible for deciding the Chargeable Areas for the customer's premises. The evidence shows that the company contacted the wholesaler and raised the customer's complaints in this regard on a number of occasions. The evidence also shows that the wholesaler confirmed that no amendments will be made. The wholesaler's explanations of its position have been provided to the

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.

customer. It is not within my remit under this adjudication to decide the Chargeable Areas or determine whether the customer's or RST's measurements are correct. The company met its obligations to raise the complaint with the wholesaler on the customer's behalf. I find no failings on the company's part in this regard. However, I am not satisfied that the company has shown that there are no failings on its part in relation to the change in RV. I am also not satisfied that the company challenged RST to review a discrepancy with information about a site visit that the company has submitted in its Defence statement. I am satisfied that the customer is entitled to a measure of compensation for the stress and inconvenience caused.

Outcome

The company needs to take the following further action:

I direct that the company pay the customer compensation in the sum of £250.00.

The customer must reply by 18 February 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/ /1064

Date of Decision: 21 January 2019

Party Details

Customer: []

Customer representative: []

Company: [].

Case Outline

The customer's complaint is that:

- It disputes the Chargeable Areas for surface water and highways drainage at its [] premises. It believes that both should have been charged at Band 1 since 1 March 2011, whereas [](RST)/[] has been charging at Band 2 and Band 3 respectively.
- The initial complaint was made on 25 March 2013 and is still not resolved.
- There are several parts to the Chargeable Areas. It disputes the calculation of its share of each of these.
- It has made many attempts to resolve the quantum of the Chargeable Areas, including two onsite meetings with RST staff, but RST has not altered its position. RST has made threats of water disconnection causing it a great deal of stress and anxiety.
- The customer requests that the company *"supply amended bills for the period 01/04/2011 to 31/03/2019 to reflect Band 1 charges. Remove all additional charges imposed for non-payment, interest etc. Account currently shows debit balance of £2,441.62 less 02/07/2018 payment of £354.98. Account should show credit balance of £1,430.38."* The customer also requests compensation for inconvenience and stress in the sum of £1,000.00.

The company's response is that:

- The customer is currently being charged on a Band 2 for Surface Water and a Band 3 for Highways Drainage. During the course of the complaint, the Surface Water banding was

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.

increased from a charge band 2 to a charging band of 3 following a Wholesaler review. This increase was incorrect and once this was recognised it was reduced back to Band 2 charges and any necessary charges were rebilled.

- The Wholesaler is confident that the charges are correct. The Wholesaler visited the premises in June 2013 and January 2014.
- The customer continued to dispute the banding charges. RST has confirmed that the charges and measurements are correct following a visit completed on 30 November 2016. RST was accompanied on site by the customer. Following the results of the visit, the customer continued to dispute these charges and it has referred to the Wholesaler on several occasions.
- The photos that the customer has provided shows that some or all of the roof water runs into water butts. Unfortunately, the customer may only be entitled to a reduction if the Surface Water ran to watercourse, lagoon or soakaway, this would be pending a further re-assessment by the Wholesaler. As the Surface Water runs into water butts, the customer would not meet the criteria for a reduction in its Surface Water banding.
- As this is a multi-occupied site, Site Area charges are also calculated by using information held on the Valuation Office Agency (VOA) such as Rateable Value (RV) for Highways Drainage charges.
- It is important to highlight that when the complaint was first received, the VOA had an RV rating of £5,100.00, which was applied on 1 January 2013; this was reduced to £5,000.00, with effect from 1 April 2015. The RV was then reduced again on 1 April 2017 to £3,850.00 and the VOA reference deleted. The VOA has then been updated again on 1 April 2017 to show a lower RV amount of £1,550.00 under a new Local authority reference.
- It has not received a new application for the charge bandings to be reviewed following this reduction or a further query to inform it that the VOA has been updated. If the customer would like the Site Area charges to be reviewed to take into account the latest VOA update he would need to complete a new application form as this may reduce the Highways Drainage charges.
- The Wholesaler has visited the premises and confirmed that the measurements are correct, it was not made aware during the course of the complaint that there have been RV reductions, and therefore the current charging bands have been calculated using an RV of £5,100.00.
- Its responsibility is to challenge RST on behalf of the customer if they think their banding is incorrect. The wholesaler's responsibility is to measure the customer's site and advise it on which banding the customer is to be charged. It believes that, as the retailer, it has fulfilled its obligation and challenged this with the wholesaler.

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.

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?

Wholesaler and Retailer

1. In April 2017, the water market in England opened up to retailers and all non-household customers were moved to a retail/wholesale structured service.
2. The evidence shows that the company is the retailer and RST is the wholesaler. Retail companies and wholesale companies are separate entities. The customer has a contractual relationship with the retailer only. Under the Water Redress Scheme, a customer can only make a complaint against the company with whom they have a contractual relationship with; that is, the retailer. Therefore, for the purposes of this decision, my remit is to determine the issues between the customer and the company.

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.

3. This adjudication can only consider the duty owed by the company to its customers. The company's duty is to contact the wholesaler and raise any claims or query any decisions on the customer's behalf.
4. It falls outside of my remit to consider any claims or complaints against RST.

Chargeable Areas / Site measurements

5. The customer submits that the dispute concerns the Chargeable Areas for surface water and highways drainage at its [] premises.
6. The evidence shows that RST, and not the company, is responsible for deciding the Chargeable Areas for the customer's premises.
7. The company's duty to the customer is to contact the wholesaler and raise any queries on behalf of the customer.
8. The evidence shows that the company contacted the wholesaler and raised the customer's complaints about the Chargeable Areas and measurements on behalf the customer. The evidence also shows that the wholesaler confirmed on a number of occasions that no amendments will be made. The wholesaler's explanations of its position have been provided to the customer.
9. It is not within my remit under this adjudication to determine the Chargeable Areas or determine whether the customer's or RST's measurements are correct.
10. As discussed above, any claim or complaints against RST cannot be considered under this adjudication.
11. I acknowledge the customer's claim and appreciate that he will be disappointed that issue of the Chargeable Area/Site measurements cannot be considered under this adjudication. However, I find no failings on the company's part in this regard.

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.

Customer service

12. Notwithstanding the above, I note that the company, in its Defence to WATRS, also states that charges for Highways Drainage are calculated using RV information from the VOA. There is no evidence to show that this was ever explained to the customer.
13. The company states that when the complaint was first received, the RV rating was £5,100.00 - this had been applied on 1 January 2013, but the RV rating has subsequently been reduced three times. The RV amount is now £1,550.00.
14. The company submits that a change in the RV rating in may reduce the Highways Drainage charges.
15. The company states that it was not made aware during the course of the complaint that there had been reductions in RV. I note the company's further submissions that the onus is on the customer to inform it that the VOA information has been updated. However, the company has not submitted any evidence to support this. I am also particularly mindful that the correspondence from the company to the customer indicates that the RST and/or the company obtain information from the VOA in the course of their business without referral from the customer. The company does not clarify this issue. Having carefully considered the matter, I find that the evidence indicates that the company failed to sufficiently challenge RST to review the information it relied on to charge the customer, in relation to its Highways Drainage charges, until after the customer had escalated the matter to WATRS. I am therefore not satisfied that the company has shown that it provided its services to the customer to the standard to be reasonably expected by the average person in this regard.
16. Another issue in the company's Defence also raises further questions about the level of service provided by the company. In its Defence to WATRS, the company submits that RST has confirmed that the charges and measurements are correct following a visit completed on 30 November 2016, and that RST was accompanied by the customer during this visit. As evidence to support its submissions, the company has copied and pasted an excerpt into its Defence that it states are site comments from the wholesaler. However, the customer submitted evidence with his WATRS application (an email dated 13 November 2016) that shows that the customer was away from 15 November 2016 to 14 December 2016, and was not present during the wholesaler's visit. The company does not clarify the issue and/or show that it queried this

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.

discrepancy with RST. I am also mindful that correspondence from the company to the Consumer Council for Water (CCW) shows that the company informed CCW that the wholesaler had also visited the site on 16 April 2017, I note that this is not referred to in the company's Defence statement. Again, I am not satisfied that the company has shown that it challenged RST to review the information it provided and/or provided a reasonable level of service at this stage of the complaints process. I therefore find that the company also has failed in its obligations to the customer in this regard.

Redress

17. In respect of the customer's request that the company "*supply amended bills for the period 01/04/2011 to 31/03/2019 to reflect Band 1 charges. Remove all additional charges imposed for non-payment, interest etc...*," as discussed above, the evidence shows that the company contacted the wholesaler and raised the customer's complaints about the Chargeable Areas and measurements on behalf the customer, and that the wholesaler has declined to make any amendments in relation to these. I have found that the company met its obligations to raise the complaint with the wholesaler on the customer's behalf. As discussed above, it falls outside of my remit to consider any claims or complaints against RST. I cannot direct that the wholesaler change the charges. Further, the company states that the VOA update may [*adjudicator emphasis*] reduce the Highways Drainage charges. In the absence of any evidence showing that the updates will reduce the bills to the level requested by the customer, I am unable to direct the remedy asked for.
18. However, in respect of the customer's request for £1,000.00 compensation for stress and inconvenience, in light of my findings above, that the company failed to provide a reasonable level of customer service in relation to the RV information and the discrepancy in its Defence statement, and bearing in mind that the issues with the customer and the company has been ongoing for over a year, I am satisfied that the customer is entitled to a measure of compensation for the stress and inconvenience caused. However, I find that the amount claimed is disproportionate to the failings shown. Having carefully considered the evidence provided, I find the sum of £250.00 to be a fair and reasonable level of compensation. No evidence has been submitted to this adjudication to support a larger sum of compensation. I therefore direct that the company pay the customer compensation in the sum of £250.00.

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.

Outcome

The company needs to take the following further action(s):

I direct that the company pay the customer compensation in the sum of £250.00.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 18 February 2019 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.



U 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.