

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1594

Date of Decision: 19 November 2019

#### Complaint

In November 2017, after receiving a high water bill, the customer queried with the company whether the meter had become faulty or whether it had somehow become linked with another property. Promises were made on numerous occasions to send an engineer to visit the site but no one came until November 2018. The engineer confirmed that there was a leak. In February 2019, the customer completed works to install a new pipeline to resolve the issue permanently. In view of the company's handling of this matter, the customer claims (1) £2,565.00 - being the cost of fitting the new pipeline; (2) removal of charges for water wasted as a result of the leak; (3) £2,000 compensation for distress; (4) £5,000 for loss of earnings.

#### Defence

The customer was told of the leak in November 2018 but he did not repair it within 28 days, which meant that (under the wholesaler's policy) he could not be granted any leak allowance. The company was not initially aware of the timescales of the leak repair. However, to fulfill its obligations as retailer to the customer, it did challenge the wholesaler's decision not to grant a leak allowance (but the wholesaler did not change its position). The company maintains, therefore, that the balance on the account of £5438.40 is correct, due and payable.

No offer of settlement has been made.

#### Findings

In the particular circumstances of this case, there is no basis for concluding that the company should have (1) advised that a self-leak test be conducted at an earlier stage or (2) ensured that the customer would not fall foul of the wholesaler's policy. In its position as retailer, the company did however - on the customer's behalf - adequately seek to challenge the wholesaler's decision.

#### Outcome

The company does not need to take any further action.

The customer must reply by 17 December 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/ /1594

Date of Decision: 19 November 2019

## Party Details

Customer: [ ]

Customer's representative: [ ]

Company: [ ].

## Case Outline

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

- The customer runs a solicitors firm from an office on [ ] ("Premises").
- He first reported this matter to the company on 3 November 2017 and again, on 23 November 2017. He was enquiring why his water bill had doubled. He suspected that either the meter had become faulty or that it had somehow become linked with another property. There could be no other explanation for the bill being so inflated.
- Promises were made on numerous occasions to send an engineer to visit the Premises. The situation persisted over 18 months but no one was sent out. The customer wrote to say that if the company was going to take a long time in this regard then the customer should not be liable to pay extra charges.
- After numerous emails and phone calls to chase up his visit, the engineer eventually arrived at the Premises on 19 November 2018. After his inspection, the engineer confirmed that there was a leak and that there was no meter issue.
- The customer then received a letter dated 20 November 2018, from RST Water, stating that a leak had been detected on the private water supply pipe to the Premises and that it was quantified at 180 litres per hour.
- The customer says he was also informed that if the leak was over 250 litres per hour then the company would repair it. Anything less than that would require the problem to be solved privately by the customer. The customer says that he is astonished by this position - as it

*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.*

appears to mean that the question of who rectifies a leak is determined by reference to how severe it is. The customer considers this to be grossly unjust. A leakage is merely that. The customer does not see how the severity of the leak has any bearing. The customer views this explanation as nothing more than a pretext to shift the burden onto the customer - particularly as no one has ever identified where exactly the leak was located or at what rate the leakage was occurring.

- In the end, the customer felt that he had no choice but to resolve the issue. He realised that if he had to spend time negotiating, etc., he would only face further loss. Ultimately, he managed to get the leakage fixed on 25 February 2019. Rather than looking to identify the exact leakage location (and then repairing it), the customer instead installed a completely new pipeline to resolve the issue permanently. This was considered to be the less costly and less time-consuming option.
- Both the company and RST Water have given the customer a great deal of stress, distress and inconvenience. The director of the customer's firm, Mr Smith, has been suffering mentally, physically and financially since 2017. His office work has suffered due to the stress. To avoid further stress, he tried several times to offer some options to the company (i.e. to bear some of the losses and to resolve the issue) but the company's behaviour in response - so far as the customer is concerned - was unfair and unreasonable.
- Due to the company's sub-standard service as referred to above, the customer claims as follows for the losses that have been sustained:
  - reimbursement of £2,565.00 being the cost to the customer of having to fit a new pipeline. The customer contends that this outlay resulted from the company's failure to deal with the leakage when the meter was initially installed originally. The customer argues that it was the company's responsibility to make sure that everything was in order when the meter was fitted; plus
  - huge costs have been borne of water wasted as a result of the leak. This loss amounts to £2,232.65. The company has recently sent the customer a final invoice of £5,438.40 up to the date of 4 September 2019, with a meter reading of 02089. The sum of £2,232.65 is included in the invoice of £5,438.40. The customer does not see why he should be liable for this charge. This charge accumulated (the customer contends) directly as a result of the company's failure to arrange for the engineer to attend the Premises earlier than he did; plus
  - £2,000.00 compensation for distress and inconvenience (as explained above); plus

*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.*

- £5,000.00 compensation for loss of earnings (due to the amount of time spent on resolving the issue).

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

- The customer initially made contact on 3 November 2017 because he was concerned that his bill had doubled. He made contact again on 16 November 2017 because he believed that the Premises were on a shared supply with a neighbouring property and he wanted the company to arrange for a supply check.
- The company responded that, in order to carry out a check on a possible shared supply (and to enable access to be arranged during the visit), RST Water (“the Wholesaler”) would require contact details for both properties.
- There was a further call from the customer on 23 November 2017, when he stated again that the Premises were on a shared supply.
- At that time:
  - the company discovered that the Valuation Office Agency (VOA) held details only for 39 and 39a Green Road;
  - 39a Green Road was a domestic property and as such, the company would not have access to check if there was a domestic account in place for that property (because this was not an account for which the company would have responsibility).
- On 7 December 2017, the company advised the customer that, in order to have an invoice solely for his Premises, he would need to separate the supply.
- A ‘stage 1’ complaint was received on 30 January 2018. However, this was not responded to within the company’s SLA of 10 working days and accordingly, a Guaranteed Standards Scheme (“GSS”) payment of £20.00 was credited to the customer’s account.
- An email was sent to the customer on 5 March 2018, which explained that the company was billing the correct meter, registered to the correct address and that this had been confirmed:
  - by the company’s billing systems; and
  - by Companies House, which recorded the business address.
- At this point, the customer advised that the address for his Premises was, in fact, 9a Green Road and not 9 Green Road. He also confirmed he had changed this with Companies House and the correct address would now be showing.
- A request was raised to the Wholesaler to carry out another supply check on 29 March 2018. Unfortunately, it transpired that the contact information provided by the customer had been

*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.*

incorrect. When the Wholesaler's planning team called to make an appointment, the telephone number was a dead line.

- In an email to the company on 11 April 2018, the customer provided further contact numbers. A request was raised back to the Wholesaler on 21 September 2018 for a supply check to be carried out. The Wholesaler attempted to arrange an appointment on several occasions but they were unsuccessful. This information was relayed to the customer on 15 November 2018 and during this call, the customer advised that there was a leak outside the Premises. In light of this information about the leak location, the company provided the number for the RST Water Network team.
- The company then had no further contact from the customer until 20 February 2019, when he advised that there had been a leak on the private pipe, which had had to be replaced.
- A leak allowance form was issued to the customer on the same day. This was returned to the company on 13 March 2019.
- The information contained in the completed allowance form confirmed that the leak:
  - had initially been identified on 23 November 2018; and
  - had been repaired on 25 February 2019.
- The company went back to the customer to explain that - as the private leak had not been repaired within 28 days - the Wholesaler would not consider granting an allowance ("the Wholesaler's Policy").
- The customer replied that the reason why the repair took over 28 days was because the company and the Wholesaler had failed to notify him of a leak until early February 2019. However, on this aspect, the company points to notes provided by RST Water, which indicate that the customer was made aware of the leak in November 2018.
- The customer escalated the leak allowance request to the Wholesaler on 18 April 2019. Ultimately, however, the Wholesaler decided that no leak allowance would be granted.
- The company considers that, in its position as the retailer, it has fulfilled its obligations to the customer in this case:
  - by raising the issue with the Wholesaler in the first instance; and
  - then, subsequently, challenging the Wholesaler in relation to granting a leak allowance.
- The company states that it has invoiced the customer for the correct meter supplying his Premises.
- Under normal circumstances, where a customer believes that an invoice received is higher than expected, the company would advise carrying out a self-leak test. It is acknowledged that no

*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.*

such advice was given on this occasion but the company says that this was because the customer was adamant that he was on a shared supply with the neighbouring property.

- The company is happy to arrange (and did arrange) for a supply check to be carried out, but in this instance the customer:
  - failed to provide the neighbouring occupants' details; and
  - failed to take calls in order to enable an appointment to be arranged.
- In total, £40.00 has been credited to the customer's account - £20.00 GSS plus a further £20.00 as a gesture of goodwill. The company does not believe that it would be fair or reasonable to require any further payments in the circumstances.
- The company adds, finally, that no payments at all have made to the customer's account since 23 May 2017. The company maintains, therefore, that the balance on the account of £5438.40 is correct, due and payable.

### 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?

1. I have reviewed in particular:

*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.*

- a. the Background History and all the exhibits attached to the customer's WATRS Application; and
  - b. the Evidence 1, 2, 3 and 4 items appended to the company's defence.
2. I have also had the benefit of reading the customer's detailed comments filed in reply to the company's defence. These are contained in a letter dated 7 November 2019 ("Comments").
  3. This matter has a relatively long history and some of the customer's allegations relate to the period before 1 April 2017, i.e. when the customer's account was with RST Water. (RST Water is now the Wholesaler, of course.) Part of the customer's case appears to date back to April 2016. That was when RST Water installed a water meter at the Premises. I note the customer says that his £2500.00 outlay in having to fit a new pipeline resulted from " ... **their failure to complete their service properly by not checking the leakage when the meter was initially fixed. It was **their** responsibility to make sure everything was in order when [the] meter was fitted ...**" I take these allegations to be directed against RST Water rather than against the company. The company did not have responsibility for the customer's account in 2016, of course.
  4. 1 April 2017 is important in this context because that was the date when:
    - a. the water market in England opened up to retailers; and
    - b. all 'non-household' customers were moved to a wholesale/retail split service.
  5. As [ ] is a non-household customer, their relationship is (now) with the retailer only. If a non-household customer has a problem with their water supply or sewerage services, they must therefore approach the retailer in the first instance.
  6. For the purposes of this adjudication, the consequence is that I cannot make findings against the retailer (i.e. the company) about something that is the Wholesaler's (i.e. RST Water's) responsibility. I can only assess the retailer's actions and make findings related to the retailer's responsibility.
  7. In this case, the customer places a lot of emphasis on the length of time that it took to send an engineer out to the Premises.
  8. Focusing on the company's acts or omissions, therefore, I have looked in particular at whether the customer ought to have been better assisted to discover the reason for the high bill that he had received. On this aspect, the following acknowledgment in the company's defence is key:

***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.***

*“ ... under normal circumstances where the customer believes that the invoice is larger than normal, [the Company] would advise [the customer] to carry out a self-leak test ...”*

9. I see that the customer seizes on this acknowledgment in his Comments:

*“... if [the company] had advised us initially about the self-leak test then we wouldn't be here with losses of thousands and all the trouble and hassle we have been through for a long time. If we were advised about the self-leak test, we would not have had to wait for so long for the problem to be diagnosed by them. This obviously prolonged the matter ...”*

10. The company gives a rather pointed answer. It contends that the self-leak test was not suggested in this instance (only) because:

*“... the customer was adamant that he was on a shared supply with the neighbouring property ...”*

11. For his part, the customer appears to dispute that he was as “*adamant*” as the company are saying. In his Comments, for example, the customer explains that (in relation to the initial reporting of the concern):

*“... as there was no visible leakage we did not mention about leakage at that time. Hence, we requested an engineer to visit our property and diagnose whatever issue it is and we only suggested that it might be a shared water supply but was not certain ...”*

12. On my reading of the relevant exchanges, it seems to me that the principal ‘working theory’ was that the high bill was due to a shared supply problem. This appears to have been the backdrop to the customer’s exasperation over having to make numerous calls to the company “*to sort the matter*” (i.e. to investigate the shared supply theory *specifically*). On this, I have taken account of the customer’s 12 June 2018 email to the company as a clear example, in which the customer says:

*“ ... we do believe that [the] amount charged is not only for our building which is 9A Green Road but for 9 Green Road ... I have been told many times that someone will give us a call and an engineer will come down **to see if [our] water meter is for one building or for two** [my emphasis] but still we haven't received any call ...”*

13. Then, on 21 September 2018, I can see that the company responded in an email to the customer. Although there was undoubtedly some delay in moving this forward, the objective -

***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.***

on my analysis - was still very much to resolve the shared supply theory. The company's agent says at this juncture:

*"... regarding your request for a supply check ... I can confirm I have raised a request to the wholesalers to provide an appointment for an engineer to attend the property to confirm what your meter is supplying [my emphasis] ..."*

14. I have considered whether there can (or should be) any criticism of the company for not stepping back from these exchanges and thinking about advising a self-leak test instead. I have concluded, however, that there cannot be any serious criticism. With the shared supply theory having been mooted by the customer, the company was obliged to address that specific concern and to try to get to the bottom of it. To suggest conducting a self-leak test instead would, it seems to me, have meant going down a completely different path.
15. The next issue that I turn to is the company's assertion that between the periods of November 2018 (i.e. when the number for the RST Water Network team was provided) and 20 February 2019, it had "*no further contact*" from the customer. I note that, in his Comments, the customer replies that this assertion is "*absolutely not true*". On the evidence available to me, I cannot see that it is clear that there was any correspondence or calls between the customer and the company about the leak (or at all).
16. I note that the company issued a leak allowance form immediately on 20 February 2019. In view of the fact that it appears that the company was 'out of the loop' between November 2018 and 20 February 2019, I consider that sending out the form was probably all that the company could be expected to do in the circumstances. For the reasons given above, I am not persuaded that - prior to 20 February 2019 - the company could realistically have been expected to do more to ensure that the customer would not fall foul of the 28 day deadline in the Wholesaler's Policy.
17. In the final analysis, it seems to me that the Wholesaler's decision not to grant a leak allowance in this instance was within the Wholesaler's Policy. I quite appreciate the customer's frustrations on this. I consider that, as retailer, the company was obliged (on the customer's behalf) to mount some degree of challenge to the Wholesaler's decision and I am satisfied that the company adequately did so.
18. Overall, therefore, I conclude that the company has provided its services to the customer in this matter to the standard that one would reasonably expect.

*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 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 17 December 2019 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.

---



**Nik Carle** (LLB (Hons), Solicitor, DipArb, FCIArb)

**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.*