

WATRS

Water Redress Scheme

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DECISION

by Mandeep Toor LLB (Hons), PGDip (LPC) MCI Arb

An adjudicator appointed by WATRS

under the Water Redress Scheme

Decision date: 9 July 2015

Adjudication Reference: WAT/█/0012

Between █¹ and █²

- The claim is made by the customer, █, against a water and sewerage company, █ Ltd.
 - The claim dated 10 June 2015 is for the company to: pay compensation in the sum of £10,000, provide an apology and for it to do the following about her bill: "honour what we were told by █ that we wouldn't have to pay any charges at all for this year and to refund". In addition, the customer seeks that the company implement a procedure allowing a supervisor to keep the customer informed and provide precise details of "when work will commence and finish etc". Further, the customer also requests that the company take the following action: "someone higher should be checking jobs priorities in their particular areas or divisions." (sic)
 - The position of the company is explained in its 25 June 2015 defence which is disputed by the customer in her undated reply.
 - The customer's claim relates to issues experienced in relation to the company's sewerage system and the level of customer service provided by the company in relation to resolving her problem. .
 - The company's position is that it accepts part of the customer's claim but does not accept to pay compensation in the sum of £10,000.
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Decision

1. The claim succeeds in part.

¹ Customer's address for correspondence: █

² Company's address for correspondence: █

2. I direct that the company pay £2,700.00 to the customer and provide the customer with a written apology.

Main issues

3. I consider that the main issues in this adjudication are:
 - a. Whether the company has failed to provide its services to the standard to be reasonably expected.
 - b. Whether the reasons given by the customer are sufficient to justify the remedies sought.

Background information

4. In order to succeed in a claim against the company the customer must prove 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 a loss. If no such failure or loss is proved, the company will not be liable, however disappointed or upset the customer is.
5. The customer and the company are aware of the facts of this case. I do not propose to recount all the facts in the same manner and order as the parties have done in their documents except where it is necessary for the purposes of this decision. I have carefully considered all of the documents submitted by the parties in support of their submissions and presented to me. The parties should also be reassured that if I have not referred to a particular document or matter specifically, this should not be taken to mean that I have not considered it in reaching my decision.

Customer's and company's positions

6. The customer submits that her claim concerns the length of time taken by the company to provide a resolution to her sewerage problem. The customer asserts that the company has lied to her and has failed to keep her updated on numerous occasions, has failed to return calls and provide explanations as to why a temporary resolution was not provided to fix the sewer. The customer submits that she has suffered as a consequence of the company carrying out "evacuations" of the main sewer and as a result of the odour released from the sewer. In addition, the customer states that she has medical conditions and decreased mobility which have been adversely affected by her being unable to use an accessible toilet due to the sewerage problem. The customer submits that the company has failed to honour promises made in relation to compensation.
7. The company accepts that the sewer to the customer's property was damaged as a consequence of works carried out by a third party gas company. The company asserts that upon initial inspection it was able to restore the flow to the sewer. The company submits that it was unaware of the customer's problem during works being carried out to neighbouring

properties. On 5 January 2015, the company submits that it became aware of the “increased severity” of the customer’s sewerage related problem and in order to minimise the effect on the customer and to prevent sewer flooding, the company hired a contractor to empty the customer’s sewer on a regular basis. The company submits that due to a lack of response from the third party gas company, an alternative method to resolving the problem was identified. The company submits that this repair was carried out between 13 – 19 February 2015. The company submits that it visited the customer and as a gesture of goodwill, hand delivered a bouquet of flowers, provided a £50.00 meal voucher and advised that further payment would be considered. The company accepts that the customer has suffered inconvenience and that there have been customer service failings with respect to the length of time taken and “insufficient proactive engagement”. The company submits that it has provided vouchers to the value of £250.00, refunded £169.29 into the customer’s bank account and has waived all charges for the period 1 April 2015 to 31 March 2016. Further, the company offered to pay the customer £500.00 which was subsequently increased to £1000.00. However, the company submits that the customer rejected the offer of payment.

Adjudicator’s findings and reasons

8. I find that:

- a. In view of the customer’s application form, I consider that the customer’s application to WATRS concerns the provision of customer service by the company in relation to the problems experienced with a sewer serving the customer’s address.
- b. In light of the WATRS Rules, I find that any submissions in relation to the Consumer Council for Water cannot be considered in this adjudication, as it is separate from the company and is not a party to this dispute.
- c. I am mindful that the customer submits that following the identification of the sewerage issue, she contacted the company on 15 October 2014. I also acknowledge that the company states that the customer first made contact on 15 December 2014. In the absence of any substantive evidence provided by the customer in support of her submission, I am inclined to accept that the problem with the sewer was reported to the company on 15 December 2014.
- d. It is accepted by the parties that the cause of the problem was due to a gas pipe which had been “recently installed” by a third party.
- e. In light of the evidence provided by the company dated 15 December 2014 which states the following: “Q is the problem restricting the use of toilet? ANS.Yes”, I am unable to accept the company’s submission that “there were no issues with restricted use of toilet

facilities at the time of their visit". Therefore, in light of my findings, I am satisfied that on 15 December 2014; the company had notice of the issue affecting the use of the customer's outside toilet facilities.

- f. With respect to the customer's claim that the company failed to provide a permanent solution sooner, as it had done so for a neighbouring property affected by the gas pipe, I note that the company submits that at the time of dealing with the neighbouring property (June 2014) it was unaware that the problem had also affected the customer. I note that upon excavation at the neighbouring property, the company discovered the cause and was able to carry out a temporary repair, due to having access.
- g. I acknowledge that the company submits that due to a gas pipe laid in the vicinity, "appropriate precautions" had to be taken before work was carried out to the sewer serving the customer's property. In view of the company's prior knowledge of the cause of the problem, I am inclined to accept that due to health and safety concerns, it was fair for the company to have considered appropriate precautions such as the gas pipe being diverted by the third party responsible before conducting a temporary repair, which I am satisfied would have required an excavation. Therefore, in light of my findings, I find that the service provided by the company at this stage did not fall below a reasonable standard.
- h. However, in the absence of any contradictory submission made by the company and any evidence provided in support, I am inclined to accept that the company did not provide an explanation to the customer of the reasons why a temporary repair was unable to be carried out. Therefore, I am satisfied that the level of customer service provided by the company fell below the standard reasonably expected. In light of the nature of the problem, I am satisfied that the customer suffered stress and inconvenience.
- i. The company submits that it is required to mitigate its own losses and provide the third party gas company an opportunity to fix the problem, which I am inclined to find is fair and reasonable. However, I find that during this period, it was fair and reasonable for the company to have kept the customer informed of why it was unable to carry out a permanent repair and a timeframe of when such action would be completed. In view of the company's account notes dated 6 January 2015 and in the absence of any substantive evidence to the contrary, I am satisfied that the customer was kept informed of the company's progress in relation to the permanent repair. Consequently, I am satisfied that the level of customer service provided did not fall below the standard to be reasonably expected.

- j. It is clear from the parties' submissions that the company took action to relieve the customer's sewer. I find that such action was appropriate and allowed the customer to continue to use the sewerage system. However, in light of the company's defence at page 3, it is clear that the customer had to contact the company advising that the sewer had not been emptied. In light of this acceptance, I am satisfied that the level of service provided by the company fell below a reasonable standard. Further, in view of the customer's existing health and mobility problems, I am satisfied that the customer suffered considerable inconvenience and stress in having to chase the company to have the sewer emptied.
- k. With respect to the length of time taken to provide a permanent solution, it is accepted by the company that "the period given for the gas contractor to respond was too long". Whilst I have found that it is fair and reasonable in the circumstances for the company to mitigate its own loss and for it to provide the gas company with an opportunity to divert the gas pipe, I find that the period of time given to the third party should be proportionate to the urgency of the reported issue, its affect on the individual(s) concerned and the level of service provided which should at all times adhere to a reasonable standard.
- l. After careful consideration of the parties' submissions, I find that as a consequence of allowing the third party gas company a long period to respond to the issue, the customer suffered substantial inconvenience as a consequence of having the sewerage system relieved / emptied on a regular basis, the unpleasant odour surrounding her property and being unable to freely use her downstairs toilet, which I note she relied upon due to limited mobility. Further, I am also mindful of the company's call notes which clearly record the contact made by the customer chasing the outcome of the progress made, which I am satisfied caused the customer further stress and inconvenience. In light of my findings, I am satisfied that the length of time given to the third party was disproportionate to the inconvenience and stress suffered by the customer. I find that the level of service provided by the company therefore fell below the standard to be reasonably expected.
- m. With respect to the level of customer service provided by the company, I acknowledge that the company states the following: "■■■■ have recognised their customer service failings, in terms of time taken and on occasion insufficient proactive engagement".
- n. In light of the company's account notes dated 5 January 2015 which state the following: "customer chasing attendance for the f.o.w they were informed of before Christmas, it's been so long they haven't heard from us", (sic) I find on a balance of probabilities that the customer was advised that the issue with the sewer would be addressed before Christmas. It is clear from the parties' submissions that a permanent solution was not

provided before the aforementioned period. In light of my findings, I am satisfied that the level of customer service provided at this stage fell below a fair and reasonable standard. In view of the nature of the issue and its effects, I am satisfied that the customer was caused stress and inconvenience.

- o. Further, in the absence of any contradictory submission made by the company, I am inclined to accept the following claims made by the customer: that the company advised her that it was unable to locate her details in relation to the company's visit in December 2014, that its contractors failed to visit her property as promised causing the customer and her husband inconvenience and stress, that the company failed to liaise with the customer and provide her with an explanation in relation to the refund of £169.29 and for the problem with the sewer itself. Further, I am also inclined to accept the customer's submission that the company failed to make contact as promised after the permanent repair was carried out.
- p. With respect to the customer's submission that the company advised that any damage caused to the pipe under her patio and drive must be covered by her own insurance policy, I find that there is a lack of substantive evidence which proves that the advice provided was incorrect.
- q. It is not disputed that the company provided the customer with a bouquet of flowers, a £50.00 meal voucher, a refund of £169.29 in relation to sewerage charges for the period 1 April 2015 to 31 March 2016, £200.00 of Marks and Spencer vouchers and that an offer of £1000.00 compensation was made, which I note was declined by the customer.
- r. In relation to the Marks and Spencer vouchers, I am mindful that the customer states that these were not initially received / provided. However, in light of the evidence of posting provided by the company, I am satisfied that the company tried to provide the customer with this gesture. I find that there is a lack of substantive evidence which proves that the company is responsible for the customer not having received the vouchers. Further, in view of the customer's comments, I am satisfied that the vouchers have since been received.
- s. I acknowledge that the customer submits that she contacted the company in an effort to explain that the vouchers had not been initially received and that a response was not provided. In the absence of any contradictory submission by the company, I am inclined to accept the customer's claim which I am satisfied resulted in the level of service provided by the company to fall below a reasonable standard.

- t. In light of my findings above, I find that the level of service provided by the company fell far below the level of what is to be reasonably expected. I find that a fair and reasonable sum of compensation to be paid by the company to the customer is £2,700.00. I have arrived at this figure as a consequence of considering the customer's individual circumstances, in that she has existing health issues and suffers from decreased mobility. I find that as a consequence of the issue with the sewer, the customer was unable to use the accessible toilet which led her to suffer significant inconvenience and stress, which I am satisfied the company was aware of and for which I award the sum of £1000.00. I have also borne in mind the length of time given to the gas company to resolve the issue and the time actually taken by the company to resolve the issue, which I note was three days. It is clear that the customer became frustrated and felt that she was lied to as the time taken for the company to resolve the issue in the end was far less than the time given to the gas company. I am also mindful of the company's following statement under "request for action to be taken": " ■ recognise that this issue should have been escalated within ■ earlier with a view to quicker resolution for the customer". In light of the company's statement, I am satisfied that the customer's complaint was not escalated efficiently, thereby contributing to the delay. For the delay caused by the company and the length of time taken in providing a permanent resolution and the inconvenience and stress suffered by the customer as a direct result, I award £1000.00. Further, I have also considered the unsatisfactory quality of customer service provided by the company, its lack of explanations and the lack of contact made, for which I award the sum of £700.00.
- u. Whilst I note the company's response to the customer's request for an apology in its defence, I find that it would be fair and reasonable for the company to provide the customer with a separate written apology in recognition of the customer service failings, namely for the company failing to attend the customer's address when promised and the lack of contact.
- v. With respect to the customer's request for the company to provide the customer with a product or service, I am satisfied that the company has acknowledged the customer's issues and is trying to improve its services. I therefore make no directions.
- w. Turning to the customer's request for the company to take some action to prioritise complaints to prevent concerns raised from "slipping through the net", I acknowledge that the company recognises that the customer's complaint should have been escalated sooner and that it has used the customer's complaint as a learning point. In light of my observation, I make no further directions.

- x. I acknowledge the customer's request for the company to honour its promise of refunding charges already paid and for it to ensure that no payment is required for the current year. I note that the company submits the following: "as a gesture of goodwill – a full refund of £169.29 covering sewerage charges for the period 1 April 2015 to 31 March 2016 was credited". I also note that the company has refunded 3 direct debit payments in the sum of £131.64 back to the customer's account and states that should any further payments be received, it will continue to process a refund. I also acknowledge that the company states the following: "█ can now confirm all water and sewerage charges for the period 1 April 2015 to 31 March 2016 have been waived". In light of the company's response to the customer's request, I am satisfied that the company has taken the requested action. I therefore make no further directions.

Conclusion

9. My conclusion on the main issues is that:
- a. The company has failed to provide its services to the standard to be reasonably expected.
 - b. The reasons given by the customer are sufficient to justify part of the remedies sought.
10. Therefore, I decide and direct that the customer's claim succeeds in part and I direct that the company pay £2,700.00 to the customer and provide a written apology.



Mandeep Toor LLB (Hons) PGDip (LPC) MCI Arb
Adjudicator