

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ 0581

Date of Decision: 28 September 2017

Complaint

The customer's claim is that there is an intermittent water leak in his cellar which causes water to collect and this has damaged his property. The customer places liability with the company for this issue. However, following investigations, the company has explained to him that it is not liable for the issue and submits the problem lies with the customer's private pipes. The customer seeks compensation from the company in the sum of £10,000.00 for this issue.

Defence

The company does not accept any liability to the customer. The company submits that, following extensive investigations, it was clear that the leaks in the customer's cellar emanated from his private pipes. The company submits that it is only legally liable for the piping vested in its network. It is not responsible to maintain the customer's private pipework. Nonetheless, the company submits that it repaired the customer's leak under its free leak repair service and has provided significant assistance to him but cannot accept any liability for the damage caused by the leak. The company submits that it has met all its statutory obligations in relation to this issue and taken significant action to aid the customer. It does not accept that it has failed to provide its services to the standard to be expected from the average person.

Findings

The customer has not objectively demonstrated with substantive evidence that the company has failed to provide its services to the standard to be expected from the average person.

Outcome

The company does not need to take any further action. The customer is not obliged to accept this decision and is free to pursue other avenues of redress.

The customer must reply by 26 October 2017 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.

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Date of Decision: 28 September 2017

Party Details

Customer: ██████████

Company: ██████████

Case Outline

The customer's complaint is that:

- There is an intermittent water leak in his cellar which causes water to collect.
- The customer submits that this issue has caused damage to his property.
- The customer has placed liability with the company for this issue and has claimed compensation in the sum of £10,000.00.
- The company has not accepted any liability to pay the compensation claimed.

The company's response is that:

- The customer has an intermittent leak on his private pipes which causes water to collect in his cellar.
- The company repaired the leak under its free leak repair service and has provided significant assistance to the customer with regards to this issue over several years but submits that it is not liable to provide compensation for the damage caused by the leak.
- The company submits that under section 209 of the Water Industry Act 1991, it is only responsible to provide compensation for damage caused by piping that is vested in its network. This is not the case in this instance and the customer has been advised of this.
- The company does not accept any liability to the customer and submits that it has provided its services to the standard to be expected from the average person.

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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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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 remind the parties that adjudication is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
2. The crux of this dispute lies with the customer's assertion that he is entitled to compensation in the sum of £10,000.00 from the company as a result of damage to his property caused by an intermittent water leak in his cellar.
3. I must remind the parties that any new submissions/claims raised at the comments stage must be disregarded in their entirety. I will proceed accordingly.
4. Upon careful review of all the evidence available at the time of adjudication (such as the correspondence between the parties and associated documentary evidence), I am satisfied that there has been an intermittent water leak in the customer's cellar over the past several years.

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5. At this juncture, I find it prudent to highlight section 209 of the Water Industry Act 1991 which expressly states:

(1) Where an escape of water, however caused, from a pipe vested in a water undertaker causes loss or damage, the undertaker shall be liable, except as otherwise provided in this section, for the loss or damage.

(2) A water undertaker shall not incur any liability under subsection (1) above if the escape was due wholly to the fault of the person who sustained the loss or damage or of any servant, agent or contractor of his.

Accordingly, in light of the above, I must conclude that the company is only liable for loss or damage caused by an escape of water from a pipe vested in its network (e.g. a communication pipe). Therefore, the company's statutory liability does not extend to loss or damage caused by leaks not vested in its network (such as private pipe systems).

6. Following close examination of all the evidence provided (such as the correspondence between the parties and the detailed case history), I note that whenever the customer contacted the company with regards to the leak in his cellar, the company aptly responded and took appropriate steps to aid him. Specifically, I note that the company repaired the customer's leaks under its free leak repair scheme, cleared blockages, flushed the pipework and also deployed a pump to remove water. Under the circumstances, I am not satisfied that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
7. Furthermore and in any event, I am mindful that the evidence available shows that the company had investigated the cause of the leak on several occasions and concluded that it emanated from the customer's private pipework (with some contribution from surface water) and that it was not caused by the pipes vested in its network (i.e. it was not from a communication pipe). I am mindful that the company conveyed this to the customer and explained that the leak in the cellar could not have been from the mains as it was not constant and various sound & sample tests confirmed this finding. In light of the absence of any substantive evidence to the contrary, I am only able to objectively conclude that the leak in the customer's cellar did not emanate from pipes vested in the company's network. Thus, in accordance with section 209 of The Water

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Industry Act 1991, the company is not liable for the loss or damage allegedly sustained by the customer as a result of this leak.

8. Taking into account all of the above, I am not satisfied that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person under the circumstances.
9. Consequently, following careful examination of all the evidence provided at the time of adjudication, I am unable to objectively conclude that the company has failed to provide its services to the standard to be reasonably expected under the circumstances.
10. Therefore, in the absence of any substantiated failures on the part of the company, I am unable to uphold the customer's claims for redress. I draw attention to the fact that the customer is not obliged to accept this decision and is free to pursue other avenues of redress.

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 26 October 2017 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.



E. Higashi LLB (Hons), PGDip (LPC), MCIArb.

Adjudicator

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