

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0792

Date of Decision: 02 August 2018

Complaint

The customer indicates that his previous water services provider (the wholesaler) charged him incorrectly at his previous property for a period of approximately 25 years. Specifically, the customer indicates that the wholesaler had designated the property as a drainage band 4 when it should have been classed as a band 1. The customer complained to the company (the property's new retailer service provider) and it confirmed that this issue related to services provided by his previous provider (the wholesaler) at his previous address. The company therefore referred the matter to the wholesaler for review and the wholesaler eventually provided the customer with £7895.18 (representing the wholesaler's overcharging for a period of six years). The company submits that the wholesaler accepts no further liability and there is nothing further it can do at this stage. The customer is now claiming for the company to provide him with a further refund of £3680.22 for the wholesaler's historic overcharging.

Defence

The company states that it became the property's water retailer when the non-household water market opened in April 2017. The customer left the property in March 2017, prior to the company's takeover. The customer's complaint relates to charges from his previous provider (the wholesaler) at his previous property, before the company became the property's water retailer. Upon receipt of the customer's initial complaint, the company advised him that the wholesaler's usual policy (as written in its conditions) is that it does not investigate historic claims of non-occupants as it cannot make the necessary investigations to determine how the property's drainage was set up in the past. However, the company pursued the wholesaler on this issue and it eventually agreed to provide the customer with a refund representing its overcharging for a period of six years. The company accepts that it incorrectly communicated this to the customer and advised that he was due a refund of £7895.19 (when it should have been £7610.97). Therefore, in recognition of its error and as a gesture of goodwill, the company added a further £284.22 to the customer's refund to bring it up to £7895.19. The company states that it has chased this matter up with the wholesaler in line with its requirements as a retailer and a refund has

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been provided. The wholesaler does not accept any further liability and the company states that it is unable to take any further action. The company states that this was conveyed to the customer but he continues to seek a further refund. In light of all the above, the company submits that it is not obliged to provide the customer with the redress being claimed.

Findings

With the exception of the communication failure that the company has highlighted (which I am satisfied the company has adequately rectified), I am not satisfied that the company has committed any further material failures to provide its services to the standard to be reasonably expected by the average person. Overall, I am satisfied that the company has appropriately discharged its obligations as a retailer.

Outcome

The company does not need to take any further action.

The customer must reply by 31 August 2018 to accept or reject this decision.

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The company's response is that:

- The company states that it became the property's water retailer when the non-household water market opened in April 2017. The customer left the property in March 2017 prior to the company's takeover.
- The customer's complaint relates to charges from his previous provider (the wholesaler) at his previous property before the company became the property's water retailer.
- Upon receipt of the customer's initial complaint, the company advised him that the wholesaler's usual policy (as written in its conditions) is that it does not investigate historic claims of non-occupants as it cannot make the necessary investigations to determine how the property's drainage was set up in the past.
- However, the company further pursued the wholesaler on this issue and it eventually agreed to provide the customer with a refund representing its overcharging for a period of six years (in line with statutory limitations). The company accepts that it incorrectly communicated this to the customer and advised that he was due a refund of £7895.19 (when it should have been £7610.97). Therefore, in recognition of its error and as a gesture of goodwill, the company added a further £284.22 to the customer's refund to bring it up to £7895.19.
- The company states that it has chased this matter up with the wholesaler in line with its requirements as a retailer and a refund has been provided. The wholesaler does not accept any further liability and the company states that it is unable to take any further action.
- The company submits that this was conveyed to the customer but he continues to seek a further refund.
- In light of all the above, the company submits that it is not obliged to provide the customer with the redress being claimed.

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.

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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. It appears that the crux of this dispute lies with the customer's claim that his previous provider (the wholesaler) charged him incorrectly at his previous property for a period of approximately 25 years. Specifically, the customer indicates that the wholesaler had designated the property as a drainage band 4 when it should have been classed as a band 1. The customer complained to the company and it referred the matter to the wholesaler for review. The wholesaler awarded the customer a refund representing its overcharging for a period of six years. The company submits that the wholesaler accepts no further liability and there is nothing further it can do at this stage (it indicates that it is not responsible for the wholesaler's historic overcharging). The customer is now claiming for the company to provide him with a further refund of £3680.22 for the wholesaler's historic overcharging.
2. I remind the parties that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I note that there is a minor inconsistency between the parties relating to the refund sum provided by the wholesaler. In his application the customer states that the wholesaler provided a refund of £7895.18; however, the company submits that the refund provided was £7895.19. Having reviewed all the submissions provided by the parties at the time of adjudication, I note that the documentation (most notably the account billing notes) all consistently state that the refund provided to the customer was £7895.19. Accordingly, based on the evidence provided, I am satisfied that the refund awarded to the customer was £7895.19.
4. It is not disputed that the customer's complaints relate to a period prior to April 2017 when the customer's water services at his previous property were provided by the wholesaler (not the company).

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5. At this stage, I find it prudent to draw attention to the fact that, in accordance with the requirements of this scheme, I am unable to make any definitive findings regarding matters that relate directly to the wholesaler. This is because the wholesaler is not a party to this dispute. My remit in this regard is limited to determining whether the company met its obligations as a retailer.
6. In the interests of clarity, I find that the company is not directly responsible or liable for the historic overcharging of the customer by the wholesaler. However, as the customer's water retailer, I find that the company was obliged to pursue this matter with the wholesaler on the customer's behalf.
7. Upon close examination of all the evidence provided by the parties, I am satisfied that the company did pursue the customer's complaint with the wholesaler on his behalf. I find that this is shown by the account notes provided. I acknowledge that the company initially advised the customer of the wholesaler's policy in relation to claims of this nature but note that it then pursued the matter further as requested by the customer. I can further see that the wholesaler eventually agreed to provide the customer with a refund for six years of overcharging (in limiting its refund to six years, the wholesaler referred to statutory limitation and its six year retroactive adjustment policy). I note that the company admits that when it conveyed this information to the customer, it incorrectly advised him that the refund sum provided by the wholesaler was £7895.19 (when the sum should have been £7610.97). Accordingly, I find that this was a failure on the part of the company to provide its services to the standard to be reasonably expected by the average person. However, in order to remedy this mistake, I note that the company provided the customer with a further £284.22 so as to bring the total refund up to the £7895.19 that was stated. Under the circumstances, I am satisfied that the company's action to rectify this failure was fair and reasonable. I can see that the company also conveyed to the customer the wholesaler's decision not to provide any further refund past the six year time period and that this was its final position. Consequently, as detailed above, I am satisfied that the company adequately discharged its obligation to chase the customer's complaint up with the wholesaler and report back to the customer. Furthermore, I am satisfied that the company appropriately rectified its communication failure.
8. In light of all the above, with the exception of the highlighted failure for which the company has already taken appropriate remedial action, I am not satisfied that any further failures on the part

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of the company to provide its services to the standard to be reasonably expected by the average person have been substantiated. Consequently, in the absence of any unresolved failures on the part of the company, I am unable to uphold the customer's claim for 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 31 August 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.



E. Higashi LLB (Hons), PGDip (LPC), MCI Arb.

Adjudicator

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