

# WATRS

## Water Redress Scheme

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## DECISION

by Alison Dablin LLM, MSc, MCIArb

An adjudicator appointed by WATRS

under the Water Redress Scheme

Decision date: 27 October 2016

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Adjudication Reference: WAT/ /0391

Between [REDACTED]<sup>1</sup> and [REDACTED]<sup>2</sup>

- The claim is made by the customer, [REDACTED] against a water only company, [REDACTED]
  - The customer's claim, dated 3 October 2016, is for the company to:
    - Remove the water meter from his property.
  - The position of the company is explained in its 13 October 2016 defence which is disputed by the customer in his reply.
  - The customer's claim is that the company unlawfully installed a water meter without his permission.
  - The company's position is that a tenant is entitled to have a water meter fitted without permission where he has a 6 month tenancy.
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### Decision

1. The claim does not succeed.

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<sup>1</sup> Customer's address for correspondence: [REDACTED]

<sup>2</sup> Company's address for correspondence: [REDACTED]

## **Main issues**

2. 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**

3. 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 some loss or detriment. If no such failure or loss is proved, the company will not be liable.
4. 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**

5. The customer states that a water meter was installed by his tenant in 2008. The tenant provided the tenancy agreement to the company. This clearly states that the tenant was not allowed to install a meter without the landlord's permission. The company fitted the meter anyway. The customer wishes to have the meter removed. The company has refused although a member of staff stated that the meter should never have been fitted. The customer has said that he was misinformed on three occasions.
6. The company states that, under s209A of the Water Industry Act 1991, tenants have a legislative right to have a meter fitted if the tenancy is for 6 months or longer. In addition, the tenancy agreement does not state that a water meter cannot be fitted. The tenant was sent an application form on 7 March 2008 and this was returned on 14 March 2008. The water meter was fitted and this was confirmed to the tenant on 30 April 2008. The company will not remove a meter installed under the Free Meter Option Scheme. The tenant paid metered charges for over 5 years. The company has also waived a balance of £774.15 that the customer was liable for as a gesture of goodwill as it could have been more pro-active in ascertaining who may have used this water. The company notes that the customer's usage indicates his bills will be cheaper on measured charges.

7. The customer has responded to the defence stating that he is still not happy with the installation of the meter and the dates stated are incorrect. The customer had a number of calls that confirmed that the meter should never have been fitted. It is not fair that he would then be told he had been misinformed. The tenancy agreement was requested by the company from the tenant who, at the time, was occupying the house for under 6 months. The tenant also told the company that she could not have the meter fitted as this was stipulated in the tenancy agreement.

### **Adjudicator's findings and reasons**

8. I find that:
  - a. The company fitted a water meter at the customer's property at the request of the tenant who was in occupation at that time. The customer disputes this action, stating it was in breach of the tenancy agreement and that he was not asked for permission.
  - b. The company has provided a copy of s209A of the Water Industry Act 1991. This provides the legislative framework where a tenant wishes to have a water meter fitted at a rental property.
  - c. The Act states that no express or implied term of a tenancy agreement can prevent the installation of a meter, where a notice or consent is given by the tenant. This applies unless the tenancy is of a fixed term of less than 6 months. The section specifically states that a fixed term tenancy is not a periodic tenancy.
  - d. The company has provided a copy of the tenancy agreement obtained at the time the water meter was fitted. I note that the term of this agreement is 'from and including: 03/10/07', and 'to and including: 03/04/08'. Given the dates are inclusive, this gives a fixed term period of 6 months and 1 day.
  - e. I acknowledge that the dates provided by the company indicate that the water meter was requested in March 2008 but that it was fitted on 22 April 2008.
  - f. The customer provided the company with another tenancy agreement dated 31 March 2008. This states that it is for a period of 6 months. I am mindful that s209A applies unless the tenancy is for a fixed term of less than 6 months. It therefore applies to tenancies of 6 months or more in duration.
  - g. Both tenancy agreements provided to the company and included in its defence show that the tenant received fixed term tenancy agreements of at least 6 months. Any clauses in the tenancy agreement that expressly or impliedly restrict the tenant from having a water meter fitted cannot be enforced under s209A of the Water Industry Act 1991.

Accordingly, whilst the customer is unhappy that his tenant had a water meter fitted, I must find that it was fitted wholly in compliance with the applicable legislation as permission was only required from the tenant and this permission was obtained. I therefore find no reason for the company to be obliged to remove the water meter.

- h. I acknowledge that the customer submits that he was advised that the water meter should not have been fitted. The company has provided a transcript of one call. I acknowledge that the information and advice given by the representative was not fully clear, with numerous references to compulsory metering and that a landlord's permission would be sought before a meter would be fitted. However, I am also mindful that the customer has not requested any remedy in his claim in relation to this. I further note that the company has agreed to waive £774.15 in charges that the customer would otherwise be liable for.
- i. In view of the above, I am satisfied that the water meter was properly installed and that the company is not obliged to remove this. Accordingly, the customer's claim is unable to succeed.

### **Conclusion**

- 9. My conclusion on the main issues is that:
  - a. The company has not failed to provide its services to the standard to be reasonably expected.
  - b. The reasons given by the customer are not sufficient to justify his claim.
- 10. Therefore, I conclude that the claim does not succeed.



**Alison Dablin** LLM, MCI Arb  
**Adjudicator**