

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0776

Date of Decision: 15 June 2018

Complaint

The complaint concerns the actions of the company and third party debt collection agencies acting on its behalf to recover unpaid arrears. In addition, the customer submits that the company has precluded him from making payment towards his charges online; that the company's proposed payment plan is excessive, unreasonable and confusing; and that he has never been told that he could receive assistance with his bills.

Defence

On 1 February 2017 it instructed a new debt collection agency to collect the customer's outstanding balance. The previous agency continued to take payments from the customer in error. There was no evidence to show that an agent acting on behalf of the new debt collection agency acted inappropriately. The customer has never raised the complaint about paying online prior to coming to WATRS. As a gesture, it has recalled the arrears from debt collection and will administer the account itself. However, the customer has not contacted it to arrange a suitable payment plan, nor has he made any payment since 27 February 2018. It has informed the customer annually since 2009 of the help available if customers require assistance with paying their bills. This information is also available on its website. No offer of settlement was made.

Findings

Complaints about the activities of a debt collection agent and/or agency should be referred to the Financial Conduct Authority (FCA) and the Financial Ombudsman Service (FOS). The company provides clear information about help available if customers require assistance with paying bills. The customer's complaint about online payments was not raised with the company prior to coming to WATRS and cannot be considered. The company has explained the charges/arrears the customer is liable for clearly. The complaint that the proposed payment plan is excessive and unreasonable falls outside of the scope of the Scheme. However, the company failed to provide its services to the standard to be reasonably expected by failing to inform the customer that his account had been withdrawn from one debt collection agency and passed to another.

Outcome

I direct that the company pay the customer £50.00 in compensation.

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The customer must reply by Thursday 13 July 2018 to accept or reject this decision.

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Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The complaint concerns tactics and the manner in which the company enlisted third party agencies to deal with the recovery of his unpaid arrears, specifically:
- The company did not inform him that only part of the debt was withdrawn from ■■■ (the 1st DCA), a debt collection agency, and that the balance of the debt remained with ■■■ (RST), another debt collection agency.
- An agent for RST arrived at his property to "remove goods to the value of", and failed to setup a finance proposal/agreement. The agent also harassed and abused him.
- The company has precluded him from making payment towards his charges online.
- He is prepared to pay the bill but the proposed arrangement is excessive and unreasonable. It is also confusing that the company is demanding two separate payments of £44.00 and £218.00 respectively totalling £262.00 monthly. The bill should be spread evenly over a period of 3 years. All future bills will be settled promptly.
- He has never been told that he could receive assistance from his charges to be reduced.
- The customer requests that his outstanding charges are reduced. The customer also requests compensation in the sum of £2,500.00 for distress and inconvenience as his wife is vulnerable suffering from severe arthritis and was very alarmed by the matter.

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The company's response is that:

- This matter relates to the instruction of external debt recovery agencies to collect monies owed by the customer, which have accumulated since 2010.
- It has sent the customer an 'annual billing leaflet' every year that included information regarding the various schemes it runs which may be of assistance to customers struggling to pay their bills. This information is also available on its website. The customer has never contacted it to discuss any difficulties he may be having with paying his bills.
- The implications of non-payment are included on its bills, reminders, final reminders and debt recovery notices. Customers are informed that if they do not pay their bill or stick to a payment arrangement it may take certain steps to recover the money owed including final notices, using debt collection agencies, County Court proceedings and enforcement action. As part of its debt recovery process, it can ask an external debt recovery agent to contact customers to retrieve monies owed.
- Between July 2014 and October 2015 payments were collected on its behalf, by an external debt recovery agent called [REDACTED] (the 3rd DCA). As the customer stopped making payments to the 3rd DCA, the arrears, collected on its behalf, were returned to it on 16 September 2016.
- On 19 September 2016 it passed the arrears that had built up on the customer's account to the 1st DCA another debt collection agent, for collection. In January 2017 the 1st DCA passed the customer's debt back to The Company, the 1st DCA then re-opened the file without its instruction when the customer continued to make payments to them. Once the 1st DCA realised its error, it sent a letter dated 6 June 2017 to the customer.
- Prior to this, but after the debt had been officially returned from the 1st DCA (in January 2017), on 1 February 2017 it instructed RST to collect the customer's outstanding balance. The customer was also advised by RST in a letter from dated 24 February 2017 that his debt would now be collected by RST. Despite this, the customer continued to make payments to the 1st DCA. It also wrote to the customer on 5 June 2017 to advise the customer that he should stop paying the 1st DCA.
- The customer sent a complaint directly to RST on the day of its visit to his home, 9 September 2017. In his email to RST he does not state that the agent who visited him had tried to remove goods from his home. However, the points that were raised in his email were investigated by RST and the agent himself was spoken to. RST found that the agent had visited the customer in line with its request to collect his outstanding arrears and there was no further evidence to

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substantiate the customer's claim that he had been harassed. As such, the matter was closed by RST.

- The customer's contention that it has precluded him from making payment towards his charges online is ineligible for adjudication under the WATRS Rules as this is the first time the customer has informed it of this and it has not had the chance to investigate and reply to this element of his complaint.
- In respect of the customer's complaint that the proposed payment arrangement is excessive and unreasonable, as a gesture, on 20 March 2018 it recalled all of the arrears that had been passed to RST. It confirmed this to the customer via the Consumer Council for Water (CCW) on 21 March 2018. Ordinarily, it would only do so when a customer commits to arranging a Direct Debit to pay current charges and outstanding arrears. Because it has done this, any payment plan it arranges with the customer going forward will be set as one payment per month/week/fortnight direct to The Company. However, since it recalled the customer's arrears from RST for collection, the customer has not contacted it to arrange a suitable payment plan, neither has he made a payment since 27 February 2018. The customer may feel that the amounts required to bring his account up to date in a timely manner are excessive however, this is due to his continued underpayment over the years.

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?

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1. I remind the parties that adjudication is an evidence-based process where the burden of proof rests on the claimant, in this case the customer, to prove his/her case on the balance of the evidence.
2. Submissions made without supporting evidence are unlikely to be accepted as proven.

The actions of debt collection agencies/agents

3. The parties have made a number of submissions about the actions of various debt collection agencies/agents. The customer states that an agent for RST arrived at the customer's property to "remove goods to the value of"; that RST failed to setup a finance proposal/agreement; and that the agent also harassed and abused him. The company also submits that the 1st DCA reopened the customer's file without its instruction in or after January 2017 and continued receiving payments from the customer when it should not have. Finally, I also note the copy of a debt collection agent's formal identification showing his name, employee number and position submitted in evidence by the customer in his Reply to the Defence. I also note the records from Companies House also submitted by the customer with the Reply to the Defence and the customer's queries about the status of various debt collection agencies in this regard.
4. However, I find that complaints about the activities of a debt collection agent and/or agency should be referred to the Financial Conduct Authority (FCA) and the Financial Ombudsman Service (FOS) for determination.
5. In accordance with Scheme Rule 3.4.1, the customer should seek a more appropriate forum for the resolution of these aspects of his claim.
6. Consequently, this aspect of the claim including any requests for redress in this regard falls outside the scope of the Scheme and cannot be considered.

The company did not inform him that part of the debt had been withdrawn from the 1st DCA and that the balance of the debt remained with RST

7. The company submits that the 1st DCA passed the customer's debt back to it in January 2017. The specific date in January 2017 is not given. It is not in dispute that neither the 1st DCA nor the company directly informed the customer that the account had been withdrawn from the 1st

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DCA until June 2017; some 6 months later and after the customer had made further payments to the 1st DCA.

8. I note the company's submissions that after it instructed RST as the new agent on 1 February 2017, RST wrote to the customer on 24 February 2017 to inform him that his debt would now be collected by RST. I note the company's further submission it should have been clear from the amount stated that the same debt the 1st DCA had been collecting on its behalf was now being collected by RST. However, having carefully reviewed this letter, it is not in my view sufficiently clear from the contents of the letter that RST was the new agent who had taken over the account; that the 1st DCA was no longer involved in the matter; and importantly that the customer should make payment to RST only. I find it would have been fair and reasonable in the circumstances for the company to have clearly informed the customer that RST had now been instructed to collect payment and that the 1st DCA was no longer involved in the matter sooner than June 2017.
9. Consequently, and in the absence of any substantive evidence showing otherwise, I am not satisfied that the company has shown that it provided its services to the standard to be reasonably expected by the average person in this regard.

The company has precluded him from making payment towards his charges online.

10. Having carefully considered the evidence provided, I accept the company's submission that this was not an issue that was previously raised to the company. Under Scheme Rule 1.6, any complaint must first be raised with the company and the company must be given the opportunity to investigate and resolve the complaint. Only if the dispute has not been resolved to the customer's satisfaction after exhausting the company's complaints procedure can the complaint proceed to CCW and then to WATRS. Consequently, I find that this aspect of the customer's claim cannot be considered.

The proposed payment plan is excessive, unreasonable and confusing

11. No evidence has been submitted to show that the company has charged the customer incorrectly for its services.

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12. I am satisfied that the company clearly explained in correspondence that the customer is currently liable for both charges for the current billing period, 1 April 2018 to 31 March 2019, and arrears dating up to 31 March 2018.
13. It falls outside the scope of the Scheme to review or challenge payment plans proposed by the company both in terms of the amounts and frequency of payments proposed to bring an account up to date. This is a business decision for the company alone to determine. In addition, in respect of the customer's further requests that his outstanding charges be reduced, as there is no evidence to show that the customer was billed incorrectly, it is also outside my remit to direct that the company reduce the outstanding charges.
14. Consequently, these aspects of the customer's claim cannot be considered.

The company has never told him that he could receive assistance with charges.

15. The company has submitted in evidence nine annual billing leaflets sent to the customer with every annual bill since 2009. Having considered each leaflet, I am satisfied that the company provides clear information about help available if customers require assistance with paying bills.
16. I note the customer's submission, in the Reply to the Defence, that he has never received a bill from the company. However, having carefully considered the evidence provided, I am mindful, although the parties discuss bills and billing directly and via CCW, this was not raised prior to receipt of the Defence.
17. I also accept the company's submission that information about assistance is also provided on its website.
18. Having carefully considered the matter, in the absence of any substantive evidence showing otherwise, the customer has not shown that the company failed to provide its services to the standard to be reasonably expected by the average person in this regard.

Redress

19. In respect of the customer's request for compensation, in light of my findings above that the company failed to provide its services to the standard to be reasonably expected by failing to

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inform the customer that his account had been withdrawn from the 1st DCA and passed to RST, I am satisfied that the customer is entitled to a measure of compensation for the stress and inconvenience caused. However, I find that the sum claimed is disproportionate to the failing shown. As discussed above, I have found no other failing on the company's part and/or other issues raised cannot be considered by WATRS. I also note that the evidence indicates that no payments were ever made by the customer to RST, thereby minimising the stress and inconvenience that may have been caused. Having carefully considered the matter, I consider the sum of £50.00 to be a fair and reasonable level of compensation. No evidence has been submitted to support a higher amount of compensation. I therefore direct that the company pay the customer £50.00 in compensation.

20. In respect of the customer's request that his outstanding charges are reduced, as discussed above, it falls outside my remit to direct that the company reduce the outstanding charges.

Outcome

The company needs to take the following further action:

I direct that the company pay the customer £50.00 in compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by Thursday 13 July 2018 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

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Uju Obi LLB (Hons) MCI Arb
Adjudicator

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