

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0798

Date of Decision: 20 August 2018

Complaint

The customer requests remuneration for overcharging based on the company not making him aware of the single occupancy tariff. The customer did not apply for a water meter as he knew one could not be fitted and he was not aware that the single occupancy tariff could be applied in this circumstance.

Defence

The assessed household charge is applicable only in cases where a water meter cannot be fitted. This is ascertained by the company conducting a survey in response to a request for a water meter. The customer did not request a water meter until 7 November 2017. Some of the company's annual billing leaflets included information about an alternative tariff where it was not possible to fit a meter.

Findings

The company must charge customers by reference to the rateable value or on a metered basis. It can only apply other tariffs where a customer requests to be charged on a metered basis but it is not possible to fit a meter. The company's annual billing leaflets for 2006 to 2010 all referred to tariffs being available where a meter could not be fitted. There was no failure by the company, and no reason for the assessed tariff to be backdated prior to the meter request date of 7 November 2017.

Outcome

The company does not need to take any further action.

The customer must reply by 18 September 2018 to accept or reject this decision.

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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.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show 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 shown, the company will not be liable.

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. The customer has been charged on an unmetered basis by the company from 1 October 1989 when the company became the regional water authority. The company charged the customer based on the rateable value of his property of 254.
2. I am mindful that the company is extremely restricted in how it may charge customers for water. By law, it must charge customers by reference to the rateable value of the property or, after a water meter has been requested, by reference to a customer's actual usage as recorded on the meter. It is only where it is not possible for a water meter to be fitted to a customer's property that the company is able to place the customer on an assessed tariff. I am therefore satisfied that the customer would only have been able to be placed on an assessed tariff if it was not possible to fit a water meter at his property.

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3. In respect of the unmeasured charges, this must be based on the rateable value of the property. The rateable value was set by a government agency that no longer exists and can therefore not be challenged. In view of this, I accept that the company has no power to amend or update the rateable value of any property.
4. The customer has referred to a neighbour in the flat below his that pays “nearly £200 per year less” than the customer. The company has confirmed that there are three flats in the customer’s building with different rateable values. It confirms that, if another flat is paying a non-rateable value bill, this will be because they have followed the metering process. I am mindful that the company is unable to provide specific details of the water accounts of the other flats for data protection reasons. However, as each property is assessed individually, I am not persuaded that, even if another flat did request a water meter, that this would have caused the company to be aware that the customer’s property was unmeterable.
5. The customer has stated that he did not apply for a water meter as he was aware that his property could not be metered. The company has provided its annual bill leaflets from 2006-07 to 2018-19. I note that the annual bill leaflet for 2006-07 includes details of water meters. It also states “Where it is not possible or too expensive to fit a meter, we can introduce an optional charging method known as the Average Household Charge. It is based on the average metered water and wastewater services household bill”. Similar information is contained in the leaflet for 2007-08.
6. The leaflet for 2008-09 contains a similar paragraph about offering “an optional charging method called the Assessed Household Charge. This is based on the number of bedrooms at your property”. The leaflet for 2009-10 contains a similar paragraph and adds that “There is also a Single Occupier Tariff for customers who live alone”.
7. The remaining leaflets do not contain any specific reference to what will happen if a property cannot have a water meter fitted, however most still contain a reference to water meters and saving money.
8. I am therefore satisfied that the company did make the customer aware, via the annual bill leaflets from 2006-07 to 2009-10, that if no water meter could be fitted, a further tariff was available for consideration. I am not persuaded that the company was under any obligation to

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advise the customer specifically of these tariffs unless and until he requested a water meter be fitted.

9. Whilst the customer states that he knew that his property could not be metered, I am mindful that the company must charge on an unmetered basis until the customer requested a change to the billing method. The company would have no way of being aware that the customer was unhappy with being charged by reference to the rateable value if he did not request a water meter or advise that he was unhappy with the level of his bill.
10. I am further mindful that the company is not generally able to require customers to have a meter fitted. A change in the billing method must be led by the customer requesting a water meter. Additionally, the company's additional tariffs are only available in limited circumstances where a water meter cannot be fitted. I find it to be a reasonable policy and I accept that the company must confirm that no meter can be fitted by conducting a survey. I am not persuaded that the company is under any duty to widely advertise a tariff that would not be available to the majority of customers.
11. In respect of the customer's assertion that the rate he was paying was equivalent to the rate for a 5+ bedroom house, I am satisfied that this is based on an average metered rate for a 5+ bedroomed house. However, I am mindful that the metered and unmetered charges are not directly comparable. The rateable value was set by reference to various factors relevant to the property up to 1 April 1990; it may have little relation to the property in its current use and condition. I am therefore not persuaded that the customer has been incorrectly charged by the company merely because the rateable value of his property resulted in a bill that is equivalent to the average metered use of a larger property. Whilst I acknowledge that this does appear to be unfair given the customer's actual use is likely significantly less than that of a 5+ bedroom property, I refer the customer to the rateable value and that this cannot be changed by the customer or the company.
12. The customer has requested a "reasonable offer of remuneration" for "years of overcharging" whilst he remained on the unmeasured charging schedule. For the reasons given above, I am satisfied that the company did make the customer aware through its annual leaflets that metering was available, and that other tariffs were available for circumstances where a water meter could not be fitted. The customer did not apply for a water meter and the company had no option but to continue to charge the customer on an unmeasured basis.

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13. In view of the above, I am unable to find any failure on the part of the company in providing the services to the standard reasonably to be expected. The company has backdated the assessed household charge to the date on which a water meter was first requested. I am satisfied that this is sufficient in the circumstances as it was not aware that the customer was unhappy with the charging method or amount. I am not persuaded that there is any justification for the charge to be backdated to any earlier date, based on my finding that the customer did not raise an issue with the charges or request a water meter, this being necessary in order for him to be deemed suitable for the assessed tariff. I have found that the company did send documentation to the customer that referred both to water meters and the available tariffs in the event no meter could be fitted. The company also properly advised the customer in respect of the alternative tariff immediately once the customer contacted it about his bills. I am therefore satisfied that the company did not fail to make the customer aware of his options. For these reasons, the customer's claim is unable to succeed.

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 18 September 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.

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A handwritten signature in black ink, consisting of a stylized, cursive 'A' followed by a long horizontal line that ends in a small flourish.

Alison Dablin, LL.M, MSc, MCI Arb

Adjudicator

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