

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0837

Date of Decision: 18 December 2018

Complaint

The customer's restaurant was flooded in August 2013, August 2015 and February 2018 due to faults with the sewer. Repairs were made to the sewer in October 2013. A further fault was identified in June 2017 but deemed non-urgent by RST Water. RST Water agreed with the customer to undertake remedial works at a convenient off-peak time in order to minimise the disruption to the customer's business and to place a hold on the customer's water account until the issue was resolved. The customer maintains that repairs were undertaken over a three year period and that the company did not undertake repairs at a convenient off-peak time. The customer further complains that his account was transferred without notice from RST Water to the company on 1 April 2017 but that RST Water failed to inform the company of the existence of an on-going complaint at the time of the transfer. The customer explains that, as per his agreement with RST Water, he did not expect to be required to pay any bills until the issue was resolved. He requests that all charges levied on his business between 1 April 2017 and 31 May 2018 are cancelled. The customer seeks an apology from the company for its failings in customer care and claims compensation in the amount of £1,000.00 for distress and inconvenience.

Defence

The company agrees that the customer's account was transferred from RST Water to the company on 1 April 2017. Since this date the company has been responsible for billing, accounting and customer services for the customer's account, however, as the wholesaler, RST Water remains responsible for the maintenance and repair of water and sewerage assets, including the sewerage pipes underneath the customer's restaurant. Therefore, the customer's claim for compensation for stress and inconvenience arising from the delay in repairing the sewer underneath the restaurant is a matter for RST Water. The company also states that any claim made regarding the customer service received by the customer during the repair process is also a matter for Sothern Water. The company is unwilling to cancel the customer's charges between 1 April 2017 to 31 May 2018. The company states that it was entitled to charge for the water and sewerage services provided to the customer during this period. The company states that it has made a goodwill payment of £100.00 to the customer and notes that RST Water has waived the customer's accrued account balance of £2,235.17. The company argues that the customer has already received adequate compensation in the circumstances.

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The company has not made an offer of settlement.

Findings

As part of the opening up of the water market the customer's account was transferred from RST Water to the company on 1 April 2017. However, as the wholesaler, RST Water retained responsibility for the maintenance and repair of the water and sewerage assets. Therefore, I agree with the company that it was not responsible for the repair to the sewer and therefore not liable for any claim arising from that repair. Similarly the company has no liability for the customer's claim for compensation for stress and inconvenience or an apology for any customer service failures by RST Water. RST Water is not a party to the claim and therefore I cannot consider any claim made against it and not the company. I find that the company was entitled to charge for the provision of water and sewerage services from 1 April 2017 to 31 May 2018. I further find that, on the basis of the evidence, the company's customer service did not fall below the standard that could reasonably be expected by the average customer.

Outcome

The company does not need to take any further action.

The customer must reply by 21 January 2019 to accept or reject this decision.

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classed the repair as 'non-urgent' and agreed that the repair would be scheduled at a convenient time for his business.

- In July 2017 RST Water agreed to waive the accrued charges on his account of £2,235.17 on the basis that the repair had been outstanding for an extended period due to the legal dispute regarding ownership of the sewer.
- On 1 April 2017 his account was transferred from RST Water to the company without notice being provided to the customer of the change. In October 2017 he contacted the company who were unaware of the history of the on-going issue with the sewer. He was advised to contact RST Water as it remained responsible for the maintenance and repair of the sewer. In November 2017, he had a meeting with RST Water and was promised that the repair would take place in the off-peak season of January or February 2018 in order to minimise the disruption to his business.
- In February 2018, RST Water sent a third party engineer to the restaurant on a busy Saturday lunchtime to inspect the drain from inside the restaurant. As RST Water had failed to give notice of the visit, the engineer was refused access. He was informed by RST Water that if he continued to refuse entry to engineers, RST Water would instigate court action in order to gain entry.
- The restaurant was again flooded on 15 February 2018.
- Repair works commenced on 26 March 2018, during the busy Easter period, and were due to take ten days. However, the work was found to be more complex than anticipated and had to be postponed until the requisite Highway Permit could be extended. The work was finally completed in May 2018.
- Despite his agreement with RST Water that his account would be put on hold until the sewer was repaired, he was billed for the period between 1 April 2017 and the completion of the repairs in May 2018. He refused to pay and claims that the company should honour the agreement and cancel the charges on his account from 1 April 2017, when his account was transferred from RST Water to the company, until 31 May 2018.
- He seeks a payment of £1,000.00 for the immense stress and inconvenience suffered over the three year period from the time the restaurant was flooded in 2015 until the sewer was repaired in 2018.
- He also seeks an apology from the company for the poor customer service he has received.

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The company's response is that:

- The customer's account was transferred to the company on 1 April 2017. From this date, it has been responsible for the retail functions of billing, accounting and customer services but, as the wholesaler, RST Water has remained responsible for the maintenance and repair of water and sewerage assets.
- It only became aware of the existence of the customer's complaint in regard to the repair of the sewer in July 2017.
- It understands that the repair is now complete but states that, as it is not responsible for the maintenance or repair of water and sewerage assets, including the sewerage pipe underneath the customer's restaurant, any complaint regarding the repair should be directed to RST Water. In any event, its understanding is that the customer's lack of co-operation with RST Water significantly contributed to the delay in the repair to the sewer.
- Any request for an apology for poor customer service provided by RST Water should also be addressed to RST Water, as they dealt with the customer's on-going complaint and the repair to the sewer. It denies responsibility for poor customer services in any other respect.
- It is not willing to cancel the charges made to the customer's account from 1 April 2017 to 31 May 2018 on the basis that the customer benefited from the provision of water and sewerage services during this period, for which it is entitled to charge. Furthermore, the customer has not shown that the restaurant was required to close or suffered a downturn in profits due to the delay in the pipe being repaired.
- It has already applied a goodwill payment of £100.00 to the customer's account in recognition of the frustration the customer has experienced during the short period it has been the customer's billing agent and states that this, coupled with the £2,235.17 waived by RST Water in July 2017, is more than adequate compensation in the circumstances of the case.

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.

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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. Having carefully reviewed the evidence provided by both parties and, in particular, the letter from RST Water to the customer dated 23 March 2018, I find that on 1 April 2017 the customer's water and sewerage account was transferred from RST Water to the company. The change was a consequence of the opening up of the market as a result of government changes that allowed services provided to non-household customers or those with a 'commercial' account to be split between the retailer and wholesaler. The company became the customer's retail provider and was responsible for billing, accounting and customer services. RST Water remained the wholesaler and, as such, retained responsibility for the maintenance and repair of the water and sewerage assets. Therefore, RST Water, not the company, is responsible for the maintenance and repair of the sewerage pipe underneath the customer's restaurant.
2. I remind the parties that as a WATRS application can only be brought by a customer against their water company, a third party company cannot be added to a claim. As the customer has a commercial water account with the company his claim was defended by and limited to the company. I am therefore unable to consider any claims or complaints in relation to RST Water or any other third party.
3. As the company is not legally responsible for the maintenance of the sewer pipe that is at the center of this dispute, it therefore follows that the company cannot be liable for any delay in executing the repair to the sewer. Similarly, the company has no liability for any financial losses the customer may have incurred as a result of any delay in completing the repairs, or for the stress and inconvenience caused to the customer as a result of any delay to the repair.
4. Regarding the customer's request for an apology from the company for poor customer service, I accept that the email from the company to the customer dated 4 April 2018 shows that the

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company failed to contact the customer with an update on 5 February 2018 as agreed. I can see that the company applied a £20.00 payment to the customer's account to compensate for this failing. Having considered the evidence, I find that the company has sufficiently compensated the customer for this matter. I have not been provided with any other evidence to demonstrate that the company failed to provide its customer service to the standard that could reasonably be expected by the average customer. I find that there has been no failing on the behalf of the company in regard to the customer service it provided to the customer. The email from the company to the customer dated 4 April 2018, and the other correspondence supplied in evidence by the company, shows that the customer was in direct contact with the wholesaler, RST Water, regarding the repair to the sewer. I accept the company's position that any request for an apology for poor customer service with regard to the sewer repair is not a matter for them and should not be directed to the company.

5. The customer has requested that the company cancels his water and sewerage charges for the period from 1 April 2017 to 31 May 2018. The company has declined, stating that the customer has benefitted from the provision of water and sewerage services and, as such, it is entitled to charge the customer.
6. The email provided in evidence from RST Water to the customer dated 12 May 2016 demonstrates that RST Water did agree to place the customer's account on hold until the issue with the sewerage pipe was resolved. The customer complains that the company charged him from 1 April 2017 stating that he expected his account to remain on hold until the repair had been completed, as promised by RST Water. On the evidence presented I cannot agree that the agreement entered into by RST Water was capable of being transferred to the company with the customer's account given that they are two separate entities. Therefore, I do not find that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person by billing the customer for its services from 1 April 2017.
7. I have been provided with no evidence to demonstrate that the company is not entitled to charge the customer for the provision of water and sewerage services from 1 April 2017 to 31 May 2018, or that the customer did not benefit from the services charged for. Therefore, I find that the company was entitled to decline to cancel the charges for the period.

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8. The customer's account statement dated 21 November 2018 supplied in evidence by the company shows that the company applied a goodwill payment in the amount of £100.00 to the customer's account. The company states that this payment was made in recognition of the frustration the customer has experienced in the short time the company has been the customer's billing agent. The company states that this, coupled with the £2,235.17 waived by RST Water, is adequate compensation in the circumstances of the case. In the absence of any evidence to show that the customer is entitled to further compensation from the company, I am satisfied that no further payment is due.

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 21 January 2019 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.

KS Wilks

Katharine Wilks

Adjudicator

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