

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0852

Date of Decision: 16 October 2018

Complaint

The customer runs a poultry production business where most water used is not returned to the sewer. The customer has incurred a substantial wastewater charge since taking over the property in December 2015. The customer wishes to have the wastewater charges removed, other than those relating to the farm manager's house and the office toilet, based on the monthly total usage recorded on sub-meters.

Defence

The wastewater charges were not queried until 12 August 2016. The company advised that there was a domestic property onsite that was connected for used water and that the customer would need to install a sub-meter to record what use returns to the sewer. The customer was advised of this by letter on 9 September 2016 and by telephone conversation on 21 November 2016. The company cannot backdate a non-return to sewer allowance prior to the sub-meter being installed. An allowance has been granted, backdated to the 6 November 2016 sub-meter install date.

Findings

The WATRS scheme can only review the actions of the company, not the wholesaler. The customer was advised of the need for sub-meters to provide a wastewater allowance no later than 21 November 2016, but these meters were not fitted until November 2017. The wholesaler policy is to apply an allowance only where the returned use can be quantified. It places the onus on the customer to fit the sub-meters to measure this returned use and challenge the assumption that the wastewater charge should be calculated by reference to the clean water supplied. The company adequately represented the customer's position to the wholesaler, however the wholesaler stuck to the policy. There was no failure by the company

Outcome

The company does not need to take any further action.

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

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Date of Decision: 16 October 2018

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The customer's business is a poultry production business with all water being consumed by the birds and not returning to the sewer. There is a large amount of water consumed on site meaning the wastewater charge is substantial. The customer arrived to run the business in December 2015. The only wastewater returning to the sewer is from the farm manager's house and the office toilet.
- The customer requests that the company accept that the sewerage charge is "totally unjustified" and to adjust the bills from the date the customer took over the site through to the date that the submeters were installed. The customer calculates the rebate in the sums of £4,260.34 and £7,000.64.

The company's response is that:

- The company states that it was contacted on 4 February 2016 and advised that [] Ltd had taken occupancy with effect from 7 December 2015. The customer disputed charges for surface water highway drainage and these charges were removed from the account. The customer did not dispute or mention charges for wastewater. The wastewater charges were not queried until 12 August 2016 and the customer advised that wastewater was put in tanks and disposed of by a third party. The company advised that there was a domestic property onsite that was connected for used water. A sub-meter was required to record what does or does not return to the sewer. The company is unable to backdate a non-return to sewer allowance prior to the sub-

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meter being installed. The wholesaler policy stipulates that it will use the information on the sub-meter to determine the volume of used water discharged to the sewer. However, if the wholesaler is not satisfied, or the occupier fails to provide full details of the relevant volumes, the charge will be based on the customer's assessment of the volume of used water discharged. On 11 June 2018, the company received confirmation that the sub-meters had been installed. The wholesaler granted an allowance, backdated to the installation date of the sub-meters of 6 November 2017, in the total sum of £2,765.09. The company believes that the customer has been charged correctly and in line with the wholesaler's policy.

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 company is a water retailer, billing the customer for the water services provided by the water wholesaler, [] (RSW). In order to make a decision in this dispute, I must clearly distinguish between actions taken by the wholesaler, RSW, and the duty owed by the retailer, the company, to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, the adjudicator operating

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under the Water Redress Scheme may only make findings related to those things for which the retailer, a party to the case, has responsibility, but not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.

2. The dispute in this case relates to the calculation of a non-return to sewer allowance (the Allowance). The customer's property is a commercial poultry farm with the farm manager's house and an office on site. The water used on the farm is not returned to the sewer; the water used at the house and office is returned to the sewer. The Allowance ensures that the customer is only charged for the transportation and treatment of wastewater in respect of the amount of water that is actually returned to the sewer.
3. The Allowance is calculated by reference to the main meter and sub-meters installed at the house and office, these sub-meters measuring the amount of water used, and therefore returned to the sewer.
4. In this case, the customer had sub-meters installed on 6 November 2017. The wholesaler has applied the Allowance based on the meter readings for periods from 6 November 2017 onwards. The dispute relates to the period from the customer taking over the premises on 7 December 2015 to 6 November 2017. The customer submits that the Allowance should be backdated to cover this period, based on the usage recorded on the sub-meters, as these demonstrate that only around 1.5% of the water supplied to the main meter is returned to the sewer. The company states that the wholesaler's policy is to apply the Allowance backdated to the installation of sub-meters on the basis that, before the sub-meters were installed, it was not possible to determine how much water was returned to the sewer.
5. As above, the actions of the wholesaler are beyond the remit of the WATRS adjudication. I am therefore not able to review whether the wholesaler's policy is a reasonable one, nor am I able to make any direction affecting the wholesaler, such as to extend the Allowance to dates prior to the installation of the sub-meters. I am only able to review the company's actions in respect of representing the customer's interests to the wholesaler.
6. I note from the timeline provided by the company that the customer contacted the company initially about surface water drainage. On 12 August 2016, the customer contacted the company to ask

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what the used water charge was for. I accept that this was the first date on which the wastewater charge was discussed with the company.

7. On 17 August 2016, the customer advised that all sewerage was collected by a third party. A note dated 21 November 2016 states that a letter had been sent in September 2016 to advise the customer to install a sub-meter. A copy of this letter has not been provided and I am therefore unable to find that the customer was advised to install a sub-meter in September 2016. However, I am satisfied that the customer was fully informed by 21 November 2016 that a sub-meter would be required in order for wastewater charges to be removed.
8. The customer had sub-meters installed on 6 November 2017, nearly a year after being advised that these were required. The note for 2 November 2017 explains that changes to the wastewater charges “would only be effective from the date the sub meters are installed”. The customer stated that he had been told that, if he took readings from his sub-meters, an Allowance could be recalculated for invoices before the sub-meters were installed. I have no evidence to demonstrate that the company did advise this to the customer. The company did agree at this time to confirm with RSW whether the Allowance could be backdated.
9. I find that the company clearly explained to the customer the billing process with the sub-meters, and that it was RSW’s policy that the Allowance “is only eligible once a sub meter is installed”.
10. The basis for the RSW policy has been explained. It will only provide an Allowance where the usage can be quantified. RSW place the onus on the customer to install a meter if they are “not satisfied that the volume of used water should be based on the reading from their water meter”.
11. As above, I have no power to consider the fairness of the policy of RSW or the calculation of the Allowance in the customer’s specific case, this being calculated by RSW. In reviewing the evidence provided, I am satisfied that the company did adequately represent the customer’s interests to the wholesaler. However, the wholesaler has maintained its policy. I also note that the company did advise the customer to have sub-meters fitted in order to reduce wastewater charges no later than 21 November 2016, however the customer did not take steps to have the sub-meters installed until November 2017. It follows that a large portion of the wastewater charges could have been avoided by the customer taking prompt action on receiving the advice to have sub-meters installed. I find no reason for the company to remove charges for wastewater where it had properly advised the customer to fit sub-meters but the customer delayed in doing so.

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12. In view of the above, I am satisfied that the company has acted in accordance with the standard expected of a reasonable water supplier. I therefore find that the customer is not entitled to the requested remedies and the 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 13 November 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.



Alison Dablin, LLM, MSc, MCI Arb

Adjudicator

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