

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0856

Date of Decision: 11 October 2018

Complaint

The customer's property experiences low water pressure. The company investigated and deemed the cause of the issue to be the supply pipe after the stop tap in the junction of Ash Road and Down Street. The company believes this is a shared private pipe. The customer disputes this, as Ash Road was originally part of Down Street until the 1990s, as confirmed by two letters. The company has recently repaired the supply pipe.

The customer requests the company take responsibility for the supply pipe and resolve the low water pressure issue.

Defence

The company investigated the low water pressure issue and found that it is providing water at a pressure well in excess of the minimum requirements. The company has recommended that the customer and his neighbours have single serving supply pipes installed at their own cost. Leaks have started to appear on the private pipe; the company has repaired these due to the ongoing dispute, but the pipe remains a private water supply pipe. The customer and his neighbours are responsible for this pipe.

Findings

The ownership of the water pipe between Down Street and the property, The Barn, was the fundamental issue in the dispute. A customer is responsible for the water pipe from the outside stop tap to his property. The stop tap located outside The Barn, at the far end of Ash Road, had expressly been fitted for testing water pressure, and was not indicative of the boundary of ownership. The stop tap in the junction of Down Street and Ash Road is the edge of the company's ownership. The company's repair of the pipe did not amount to it asserting ownership of the supply pipe. It is not responsible for the shared supply pipe and did not fail to supply its services to the standard to be reasonably expected.

Outcome

The company does not need to take any further action.

The customer must reply by 8 November 2018 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0856

Date of Decision: 11 October 2018

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The customer's property has an issue of ongoing low water pressure. A single supply pipe serves the customer's property and two others, The Barn and the Acres. As part of the company's investigation into the low pressure, it replaced the outside stop valve at the junction of Ash Road and Down Street. The company deemed the supply pipe after this stop valve to be the cause of the low water pressure. It states that the supply pipe is a private pipe and is the responsibility of the customer and his neighbours. The customer submits that this is not the case and that Ash Road was part of Down Street until the 1990's when the name was changed. A letter from [] Waterworks Company (AWWC) dated 7 November 1986 refers to the stop cock outside The Barn which was covered by AWWC. The company recently repaired the supply pipe. The pipe does not leave the boundary of the highway and is laid along the line of the public sewer, suggesting it was laid at the same time.
- The customer requests the company take responsibility for the supply pipe at Ash Road and to resolve the issue of low water pressure.

The company's response is that:

- The customer's property is served by a private supply pipe, shared with his neighbours. The pressure being supplied to the end of the water mains network is well in excess of minimum requirements. The company has recommended the customer and his neighbours consider having new single serving supply pipes installed at their own cost. Leaks have started to appear on the

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private pipe. In view of the ongoing dispute about responsibility for this pipe, the amount of water being wasted, and the effect on the water supply, the company decided to repair the leaks at its own cost. However, the pipe remains the responsibility of the owners of the properties that the pipe supplies. The company denies that the pipe is a company asset. The pipe is not shown on the water mains records. It denies the customer's claim.

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's property is Green Cottage on Ash Road. This is a cul-de-sac accessed from Down Street. Three properties are served by the water pipe that spurs off via a stop tap at the corner of Down Street and Ash Road: the Barn, Green Cottage, and the Acres.
2. There is a stop tap located on the water pipe at the boundary of the Barn towards the far end of Ash Road, away from Down Street.
3. The customer is experiencing an issue of low water pressure, especially during the morning when his neighbours are also using water. I am satisfied that the cause of the issue of low pressure is the suitability of the pipe that spurs off at the junction of Down Street and Ash Road. The customer submits that the pipe up to the stop tap outside The Barn is the responsibility of the company and

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that it falls to the company to resolve the low water pressure issue and any leaks on the pipe. The company submits that the pipe from the stop tap at the junction of Down Street and Ash Road is a shared, private supply pipe and that it has discharged its obligations by providing more-than-adequate water pressure to the stop tap.

4. It is therefore necessary to determine the ownership of the water pipe in Ash Road. For the avoidance of doubt, this determination must be made on the balance of probabilities. The parties should be aware that I am not an expert in the water industry; my role is a legal one. The decision must also be made on the evidence provided and, as adjudicator, I have no investigative powers.
5. The customer has referred to the water pipe as running alongside the sewer pipe, and states that the pipes were likely laid at the same time. Whilst this may be the case, it is not a relevant factor for determining ownership of the water pipe. Private shared sewer pipes were transferred to the company by legislation; no similar legislation was enacted in respect of the water pipes. The current ownership of the sewer may therefore be different from the water pipe as a result of legislation.
6. I note that a shared supply pipe serving more than one property may be laid under the highway, land owned by any of the property owners served, or land owned by someone else. This is quite common across the UK in respect of supply pipes. Ownership of the land a pipe runs through is therefore not a factor determinative of ownership that the pipe was laid under the road of The Barn.
7. I have been provided with two letters that assist in determining the historical ownership of the water pipe. The first, from [] District Council, is dated 24 October 1979. This letter refers to enquiries “about any public responsibility for the foul drain serving your property” and states that “there is probably a presumption that, as the pipe is in the carriageway, which is adopted together with its surface water drainage, the foul sewer should in equity also be considered public”.
8. I note that this letter refers to the foul drain, however it pre-dates the transfer of sewer assets to the company. The letter is inconclusive as to actual legal ownership of the sewer, stating only that there is a presumption that a sewer in the carriageway will be considered public.
9. The second letter is from [] Waterworks Company (AWWC), dated 7 November 1986, to the resident of “The Barn , [] Lane”. This letter refers to a meeting at [] County Court on

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4 November 1986 and states that AWWC had “now been able to ascertain the position with regard to the position of the stop tap and where the Company’s responsibility ends”. The letter confirms that the “Company’s responsibility ends at the stop tap in Down Street, the stop tap just outside the boundary of your property was fitted when the water pressure was tested by the Company. Therefore the supply pipe from the stop tap in Down Street is not the responsibility of the Company and the “road” which the supply pipe is under is classed as a private drive”.

10. The customer states that Ash Road was part of Down Street until it was renamed in the 1990s, after this letter. I accept this on the balance of probabilities based on the address on the AWWC letter. The 1979 letter also confirms that the carriageway had been adopted and, on the balance of probabilities, I find that the ‘carriageway’ can only refer to the road now known as Ash Road.
11. I am mindful that the AWWC letter states that the road is “classed as a private drive”; it is unclear whether AWWC has its own method of categorising roads or if it mirrors the adoption of roadways by the local Council.
12. I am, however, satisfied that the letter provides a clear explanation for the presence of a stop tap outside The Barn , i.e. at the far end of Ash Road. This was fitted by AWWC with the intention to test the water pressure. It is therefore clear that the supply pipe was in place prior to the stop tap being fitted; it was not laid at the same time as would have occurred if a water main had been laid to this point with a private supply pipe spurring off from this stop tap.
13. The ownership of a water pipe is determined by reference to the outside stop tap. The company is responsible for the water main and the communication pipes that spur off from the water main. The company is then responsible for the outside stop tap, this being the boundary of its assets. The customer will then be responsible for the remaining pipework serving his property, either alone or shared with neighbours.
14. In this case, there are two stop taps: one in the junction of Down Street and Ash Road and one outside The Barn . I am satisfied that the stop tap outside The Barn was fitted with the specific purpose of measuring water pressure, and not as an indicator that the company had laid the pipe along Ash Road, or that it was asserting ownership of this pipework. I find that the the Barn stop tap was merely a tool fitted in order for AWWC to conduct pressure tests and, whilst the reason this was necessary is no longer available, I find that the evidence strongly indicates that the pipe

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from the junction with Down Street, at all times, remained a shared supply pipe to the three properties.

15. In view of this, I am satisfied that the company is responsible for the maintenance of the water pipe work up to and including the stop tap and boundary box at the junction of Down Street and Ash Road only. The customer and his neighbours are responsible for the pipework from this point to their properties.

16. I acknowledge that the company has completed repairs on this private supply pipe, at its own cost. I am satisfied that this was a business decision, based on the loss of water, that ownership of the pipe was in dispute, and that the leak was negatively affecting the supply to the properties. I find that, at no point, did the company, through its actions, accept responsibility for the pipe.

17. In view of this, as the company is meeting its obligations in respect of the water pressure supplied to the stop tap in the junction of Down Street and Ash Road, I find that it cannot be obliged to take responsibility for the customer's private supply pipe or to alter this to resolve the low-pressure issue. I am also satisfied that the company has not failed to provide its services to the standard to be reasonably expected. The claim is therefore 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 8 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.

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A handwritten signature in black ink, consisting of a stylized, overlapping loop followed by a long horizontal stroke that ends in a small flourish.

Alison Dablin, LLM, MSc, MCI Arb

Adjudicator

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