

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0869

Date of Decision: 15 February 2019

Complaint

The customer submits that in February 2017, she received a letter from the company informing her that there was a leak on the shared supply and that she and her neighbours would need to work together to fix the leak. She hired a private plumber who investigated and confirmed that the leak was not at her property. She was charged £150.00 for this. However, although she confirmed the leak was not at her property, the company undertook an enforced repair and she received a notice to pay £602.64. She believes that the company did not provide clear advice about what to do in a situation where there is a shared leak, and so caused her to spend £150.00 unnecessarily. The customer requests that the company pay £150.00 to cover the cost of the plumber's bill and waive the £602.64 shared leak repair bill.

Defence

The company submits that it identified a leak on the private water supply pipe that jointly supplies the customer's property and several of her neighbours. All of the customers who are supplied by the pipe are jointly responsible for the repair and maintenance of the pipe. When there is a leak on a private supply pipe it sends letters to all of the customers supplied by the pipe to let them know they need to arrange the repair and to liaise with their neighbours. If the leak is not repaired by the customers, it can take steps under Section 75 of the Water Industry Act 1991 to repair the leak itself and recharge the customers. Only those customers who are downstream of the leak are responsible for the costs of repair. On 17 February 2017, it issued a Section 75 of the Water Industry Act (WIA) 1991 notice to all customers on the joint supply. Despite further letters being sent out on 12 April 2017, 13 June 2017 and 23 June 2017, the leak was not repaired. It therefore carried out an enforced repair on 11 July 2017. Although the customer arranged a plumber, who confirmed that there was no leak on her section of pipe, there was a leak elsewhere on the private supply pipe, for which the customer was jointly responsible. It is not responsible for any costs associated with the location of a leak on private pipework. It offered the customer a gesture of goodwill payment of £50.00. This was declined.

Findings

The company is legally only responsible for the water main and the communication pipe from the water main to the boundary of a property. Property owners or occupiers are responsible for the supply pipe, which runs from the boundary of the property to the property. A supply pipe may serve

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more than one property, in which case responsibility for the supply pipe is shared by all of the property owners/occupiers served by the pipe. Once an issue has been identified on the supply pipe, any repairs are the joint responsibility of the property owners and/or occupiers. Under the legislation if the leak is not repaired by the customer(s) then the company is empowered to repair the leak and recover the cost from the customer(s). I accept the customer's submissions that the company's notification and reminder letters gave the impression that customers should check their individual sections of the pipe only and repair any leaks. I am not satisfied that the company's correspondence makes sufficiently clear that each customer is also responsible for checking for leaks elsewhere on the private supply pipe, and would be jointly liable for the cost of an enforced repair. I note that the company also acknowledged to the Consumer Council for Water (CCW) that its correspondence could have caused confusion. Notwithstanding this, the customer and her neighbours were still jointly and severally under a legal obligation to investigate the leak. I acknowledge the customer took some steps to try to locate the leak, and I can appreciate the difficulty of the situation for the customer. However, any failure by the customer's neighbours to act on the legal notice is not the company's responsibility. I accept the company's submission that these are third party issues. The company has submitted evidence that confirms that under its policy only those customers who are downstream of a leak are responsible for the costs of repair. No evidence has been submitted to this adjudication to show that the company's leakage policy was not approved by OFWAT or does not comply with OFWAT's charging rules. The company is not liable to reimburse the cost of the plumber and the customer is obliged to pay the joint cost of the enforced repair. However, the company should provide compensation for the confusion caused by its correspondence.

Outcome

The company needs to take the following further action:

I direct that the company pay the customer compensation in the sum of £100.00.

The customer must reply by 15 March 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 15 February 2019

Party Details

Customer: []

Customer's Representative: []

Company: [].

Case Outline

The customer's complaint is that:

- In February 2017, she received a letter from the company informing her that there was a leak on the shared supply and that she and her neighbours would need to work together to fix the leak.
- As she was not aware of any leaks on her pipes, she hired a private plumber who investigated and confirmed a leak at property number 3, not number 16 where she lives. She was charged £150.00 for this.
- However, although she confirmed the leak was not at her property, the forced repair by the company went ahead and she received a notice to pay £602.64. She is disputing this charge and requests that the plumber's fee is also refunded. She believes that the company did not provide clear advice about what to do in a situation where there is a shared leak, and so caused her to spend £150.00 unnecessarily.
- The customer requests that the company pay £150.00 to cover the cost of the plumber's bill and waive the £602.64 shared leak repair bill.

The company's response is that:

- On 16 February 2017 it identified a leak on the private water supply pipe that jointly supplies the customer's property, 16 Green Street and several of her neighbours.
- All of the customers who are supplied by the pipe are jointly responsible for the repair and maintenance of the pipe.

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- When there is a leak on a private supply pipe it sends letters to all of the customers supplied by the pipe to let them know they need to arrange the repair and to liaise with their neighbours as each of the customers' needs to have their part of the pipe checked.
- If the leak is not repaired by the customers, it can take steps under Section 75 (9) of the Water Industry Act 1991 to repair the leak itself and recharge those customers who are responsible for the leak.
- Only those customers who are downstream of the leak are responsible for the costs.
- On 17 February 2017, it issued a letter under Section 75 of the Water Industry Act 1991 to all customers on the joint supply to advise of the leak and their joint responsibility to repair it. Despite further letters being sent out to the customers on 12 April 2017, 13 June 2017 and 23 June 2017, the leak was not repaired. It therefore carried out an enforced repair on 11 July 2017, and recharged the cost of this to those properties that were downstream of the leak, including the customer.
- The customer arranged a plumber, who confirmed that there was no leak on her section of pipe. However, there was a leak elsewhere on the private supply pipe, for which the customer was jointly responsible. It is not responsible for any costs associated with the location of a leak on private pipework, and is therefore not liable for reimbursement of the plumber's bill.
- It offered the customer a gesture of goodwill payment of £50.00. This was declined.

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.

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How was this decision reached?

1. I must remind the parties that adjudication is an evidence-based process.
2. 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.
3. The company is legally only responsible for the water main and the communication pipe from the water main to the boundary of a property. Property owners or occupiers are responsible for the supply pipe, which runs from the boundary of the property to the property and all the pipework, fixtures and fittings inside the property.
4. A supply pipe may serve more than one property, in which case responsibility for the supply pipe is shared by all of the property owners/occupiers served by the pipe.
5. Once an issue has been identified on the supply pipe, any repairs are the responsibility of the property owners and/or occupiers. The company has also submitted evidence from OFWAT, the Regulator, which confirms this.
6. The evidence shows that there was a leak on the private shared supply pipe.
7. I accept the company's submission that, under section 75 of the Water Industry Act 1991, it has the power to issue a legal notice to inform customers of a potential leak on their private supply and their legal obligation to fix the leak. Under the legislation if the leak is not repaired by the customer(s) then the company is empowered to repair the leak and recover the cost from the customer(s). This is again also confirmed by the excerpt from OFWAT's website submitted in evidence by the company.
8. A copy of the notice issued to the customer dated 17 February 2017 has been submitted in evidence. In the notice, the company confirmed that the customer was on a joint supply; confirmed the neighbours/property numbers that shared the joint supply; and informed the customer that she would need to work together with the properties listed to find and fix the leak within 28 days. However, although the company advises the customer to liaise with her

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neighbours, I am inclined to accept the customer's submissions that this 17 February 2017 notice and the company's subsequent letters also gave the impression that customers should check their individual sections of the pipe only and repair any leaks. I am not satisfied that the company's correspondence makes sufficiently clear that each customer is also responsible for checking for leaks elsewhere on the private supply pipe, and would be jointly liable for the cost of an enforced repair. I note that the company also acknowledged to the Consumer Council for Water (CCW) that its correspondence could have caused confusion.

9. The account notes submitted by the company in evidence show that the customer received the 17 February 2017 notice and contacted the company by telephone on 24 February 2017. The notes state that the company advised the customer to liaise with her neighbours. However, no clear evidence has been submitted to this adjudication to show that during the call the company fully explained that the customer was also responsible for checking for leaks elsewhere on the private supply pipe, and would be jointly liable for the cost of an enforced repair.
10. In view of the above, I am not satisfied that the company provided its services to the standard to be reasonably expected in relation to the information given to the customer about her responsibilities in relation to the leak.
11. Notwithstanding the above, I acknowledge the customer's submissions that the company did not provide clear advice about what to do in a situation where there is a shared leak, and so caused her to hire a private plumber spend £150.00 unnecessarily. However, as discussed above, the customer and her neighbours were jointly and severally under a legal obligation to investigate the leak upon notice from the company that the leak was on the shared supply. The company is not liable to pay the cost of the private plumber hired by the customer to locate the leak. I acknowledge the customer took some steps to try to locate the leak, and I can appreciate the difficulty of the situation for the customer. However, any failure by the customer's neighbours to act on the legal notice is not the company's responsibility. I accept the company's submission that this is a third party issue. (Please note that for the purposes of this decision my remit is to determine the issues between the customer and the company. Any claims against third parties cannot be considered.)
12. The leak was not repaired. The company therefore undertook an enforced repair on 11 July 2017, the cost of which was passed on to those properties that were downstream of the leak. This meant that although the legal notice was issued to eight properties, only three properties

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were billed for the leak repair. The company submits that under its policy only those customers who are downstream of the leak are responsible for the costs. The company has submitted an excerpt of its "Repairing Leaks" leaflet as evidence to support its submission. The company also submits that this is the case as it is those who are downstream of a leak that will be affected by the leak. No evidence has been submitted to this adjudication to show that the company's leakage policy was not approved by OFWAT or does not comply with OFWAT's charging rules. It falls outside of my remit to review or challenge this policy. Therefore, in light of the evidence submitted to this adjudication and in the absence of any evidence showing otherwise, the customer has not shown that the company has charged her incorrectly and that she is not liable to pay for the joint cost of the enforced repair.

Redress

13. The customer requests that the company pay £150.00 to cover the cost of the plumber's bill and waive the £602.64 shared leak repair bill. However, as discussed above, the company is not liable to pay the cost of the private plumber hired by the customer. The customer is also jointly liable to pay the cost of the enforced repair. Consequently, the customer's requests are unable to succeed. However, in light of my findings that the company failed to provide its services to the standard to be reasonably expected with regards to the information given to the customer about her responsibilities in relation to the leak, I am satisfied that the customer is entitled to a measure of compensation for the distress and inconvenience suffered. Having carefully considered the evidence provided, I find the sum of £100.00 to be a fair and reasonable level of compensation. I therefore direct that the company pay the customer compensation in the sum of £100.00. This direction is made in accordance with WATRS Rule 6.6 which provides that an adjudicator can award more than has been claimed by the customer in exceptional circumstances.

Outcome

The company needs to take the following further action(s):

I direct that the company pay the customer compensation in the sum of £100.00.

What happens next?

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- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 15 March 2019 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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U Obi LLB (Hons) MCI Arb
Adjudicator

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