

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0882

Date of Decision: 2 October 2018

Complaint

The customer states that the company has refused to backdate a claim for a non-return to sewer allowance between the dates December 2014 and December 2016. The customer states that the company have not dealt with the complaint in an acceptable timeframe. The matter was referred to CC Water who supported the customer's claim. He seeks a retrospective non-return to sewer abatement be applied to the account of the [] Bowling Club.

Defence

The company has stated that the sub-meter readings for the non-return to sewer allowance must be provided in the year that they are claimed. The company states that the wholesaler, [], have a policy whereby they do not backdate allowances. The company states that it cannot override this policy.

The company states that it has made payments of £180.00 Guaranteed Standards Scheme payments for delays in response to customer, £20.00 goodwill payment in relation to delays and a further £80.00 Guaranteed Standards Payment to the customer, again in relation to delays in correspondence.

Findings

The customer has not established that the company failed to reach the standard to be reasonable expected.

The company acted in accordance with its legal obligations in referring the customer's application for a backdated allowance to the wholesaler. The company has acted in an adequate manner to compensate for delays in customer service.

Outcome

The company does not need to take any further action.

The customer must reply by 30th October 2018 to accept or reject this decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0882

Date of Decision: 2 October 2018

Party Details

Customer: [].

Company: [], a water and sewerage company.

Case Outline

The customer's complaint is that:

- The customer has submitted an application for a non-return to sewer allowance for the time period between December 2014 and December 2016.
- The customer is the treasurer for [] Bowling Club and states that due to the illness of the previous treasurer the allowance had been overlooked.
- The customer claims that adequate evidence has been submitted. That readings taken in November 2014 of 1249 and July 2017 of 2115 were submitted. He states that the issue of whether or not the club was in use can be shown by the annual returns of the club and also by news of the club activities on social media.
- The customer states that the time taken for the company to respond to his request for the allowance was unreasonable. He states that this undermines the company's position.
- The customer states that he was unaware of the policy of not backdating claims and had no way of knowing about it.
- The customer feels that the application of the policy in the circumstances is harsh.
- For clarity the customer has indicated that the other disputes over billing matters have been resolved.
- The customer seeks a retrospective non-return to sewer allowance be applied to his account.

The company's response is that:

- The company states that it has properly requested the allowance from the wholesaler, [] (RST)
- The company states that the wholesaler has determined that the customer's non-return to sewer allowance cannot be backdated to cover the period December 2014 to July 2017.
- It states that it has submitted the evidence given by the customer. That this comprises of two sub meter readings, November 2014 of 1249 and July 2018 of 2115. It states that there is a gap of two years and eight months between these readings and that the wholesaler does not accept this as adequate evidence.
- The company states that the evidence regarding the customer's yearly account and the details of social media accounts are not considered the type of evidence required by the wholesaler.
- The company states that it has fulfilled its obligations as a retailer by referring the request to the wholesaler and that it cannot override the policy set down by the wholesaler.
- The company states that as the time period in question fell before the restructuring of the water industry in April 2017, it was not responsible for the customer for until after that time.
- The company states that it accepts responsibility for delays in communication with the customer between July 2017 and September 2017. It states that it has applied an £80.00 Guaranteed Standard Service payment to the customer's account in relation to this delay.
- The company states that it has also applied a £180.00 Guaranteed Standards Scheme payment for other issues, now resolved, and a goodwill gesture payment of £20.00.
- The company does not believe that the customer's application is substantiated and states that it has acted in accordance with its duties and obligations.
- In light of all the above, the company submits that it is not obliged to provide the customers with the redress being claimed.

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. An important issue in this case is that the customer claims he is due a non-return to sewer allowance from the company. The company states that the wholesaler has refused this claim and that it has fulfilled its obligation to the customer. While there is a lot of detail in the paperwork, what is most important is the issue of whether or not the company failed in providing the services it was obliged to provide. The issues I refer to below are those central to this question.
2. I note that the parties both refer to a billing dispute that has now been resolved to their mutual satisfaction. The evidence within the papers relating to that dispute is not referenced in my decision below.
3. I find it important to remind the parties that adjudication is an evidence based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
4. In order to clarify any potential confusion, I must remind the parties that the company and RST are separate and distinct organisations. The WATRS scheme is limited in its scope to complaints made by customers to their water providers, in this case the company. However, other services may actually be provided not by the company, but by a third-party like RST in this case. Following the rules of the WATRS scheme, I cannot make any findings on third-party actions in my decision and must limit my considerations to matters between the customer and that company.
5. In cases such as this the retailer and the wholesaler have separate obligations. The obligation of the retailer, the company in this case, is to ensure that the claim made by the customer has been properly referred to the third-party wholesaler, RST in this case, for consideration. Only if the evidence shows that the obligations of the company have not been met shall I continue to consider any remedy.

6. I note that the customer's application states that the time period he seeks the allowance for is December 2014 to December 2016. The company has stated throughout the defence that the customer seeks an allowance for the time period December 2014 to July 2017. I note from the company's defence that a non-return to sewer allowance was granted by the wholesaler for the dates between the 1st October 2016 and 30th September 2017, leaving the disputed time period as stated by the customer in his application. Therefore, for clarity I shall treat the dates given by the customer in his claim as the relevant time period, December 2014 to September 2016.
7. The company has stated in its defence that it made the application to the wholesaler for the customer's allowance claim. The company has submitted various emails in evidence. I note that on the 13th November 2017 there is an entry in the timeline that states that the company referred the customer's request for an allowance to the wholesaler, RST. The reference given for this claim was 0031[]. The customer does not challenge that this application was made on his behalf by the company. The company reported that the wholesaler had refused the application for an allowance between the relevant dates in this claim due to the fact that it found that the evidence of the sub meter readings was insufficient, given that there was a gap of two years and eight months between the readings. It was also stated that the wholesaler has a policy of not backdating non-return to sewer allowance claims. I find that the company acted properly in this regard and the evidence shows it took the appropriate action of referring the customer's claim to the wholesaler.
8. The company has submitted the wholesaler's policy with its defence. I do not intend to scrutinize the policy, as it is the policy of a third-party (as explained above in paragraph 3). I take into account that the company referred the customer to the wholesaler's policy to explain why the claim was refused. The email exchange between the parties shows that the company was concerned that the customer had not provided sufficient evidence to satisfy the wholesaler that an allowance was justified under its policy. The policy at part 6.5 reads that an allowance will be made "If demonstrated to our satisfaction that the volume of sewage discharged from any premises is less than the volume of water supplied to the premises, minus the standard sewage abatement." I take into account here that this policy leaves the deliberation of what is sufficient evidence entirely at the discretion of the wholesaler. The customer has provided evidence that the premises was in use by referring to its social media page and its annual accounts. While I do not doubt that this was a genuine effort on the part of the customer to try and provide evidence suitable to persuade the company that a rebate was justified, the company could not insist that the wholesaler accept this information as sufficient evidence in lieu of the sub meter readings. I find that the company did not fail in its obligations to the customer in this regard, and on the contrary, that the company took action to try and increase the customer's chances of a

successful claim for an allowance by advising him that the two sub meter readings were insufficient and writing to check if there were any more readings for the period in dispute.

9. The customer has claimed that there was an unreasonable delay by the company in its handling of the claim. While the company has accepted responsibility for some of the delay, it points out that the wholesaler requires a certain period of time to answer such requests and that this is outside the control of the company. Further, the company states that the customer was unable to provide the required evidence when it was asked for, and that this added to the delay. I am mindful that the company claims it has paid the customer an £80.00 Guaranteed Standards Scheme payment in respect of the delay caused by its failure to reply to correspondence adequately between 20th July 2017 and 5th September 2017. This statement is made at page 52 of the defence and is not refuted by the customer in his reply. The customer states that the company's unacceptable service has added to the customer's inconvenience. I take into account that the delay in answering the customer's correspondence was indicative of a lack of adequate service on the part of the company. However, I must also note that the company has paid an amount in recognition of this and that the payment was not challenged by the customer. I find that this is sufficient, and I make no further award in this respect. I am also mindful that once the application had been passed on to the wholesaler for consideration it was not within the power of the company to move the process forward any faster. I am not persuaded by the company's assertion that the customer has in part added to the delays in the process. Nevertheless, the outcome of the application was not in any way affected by the delay as the relevant time period for consideration was between two set dates. Therefore, I do not make any award in relation to this delay.
10. The customer states that he was unaware of the policy of not backdating claims for non-return to sewer allowances. The company states that it only became responsible for the customer in April 2017, after the retailer/wholesaler split. I take into account that the company could not bear any liability for matters predating its relationship with the customer and therefore do not find any failure on the part of the company in this regard.
11. I am mindful that in the circumstances of this case neither the company nor the wholesaler is legally obliged to provide a rebate for water that does not return to the sewer. Furthermore, I note that the customer has not highlighted any specific legislation that shows they are entitled to the rebate being claimed.
12. Based on the documents available, I find no evidence that persuades me that the customer is entitled to the non-return to sewer allowance. In fact, I am only able to conclude from the

evidence provided, that the company duly investigated the issue and confirmed that the customer was not entitled to any allowance under the circumstances (as there was insufficient evidence between the dates November 2014 and July 2017). Consequently, in light of all of the above, and upon review of all the evidence provided by the parties at the time of adjudication, I am not satisfied it has been shown that the company has failed to provide its services to the standard to be reasonably expected by the average person in this instance.

13. It follows from the above that I find that the customer has not proved that there has been a departure by the company from the standard reasonably to be expected of it and the customer does not succeed in his claim for redress.

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 30 October 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.

Johanna Higgins

Johanna Higgins, Barrister, ACI Arb.

Adjudicator