

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0899

Date of Decision: 8 October 2018

Complaint

The customer states that she asked the company to conduct a survey in 2007 with a view to installing a water meter. The survey technician deemed the property 'unmeterable'. The customer understood that she would be placed on a lower tariff as a meter could not be fitted. In September 2017 the customer realised that she had not been put on to the lower Assessed Household Charge (AHC) and had been paying the higher Rateable Value (RV) tariff instead. The customer requested a refund of the difference in cost between the two tariffs, believing that she has been overcharged since 2007, but this was rejected by the company.

The customer complains that the company did not inform her that she was paying the RV tariff or that she needed to apply for a meter in order to access the lower AHC tariff.

The customer also complains about the quality of the 2007 survey and states that the reason she was told a meter could not be fitted is inconsistent with the reason the surveying technician recorded on her account records at the time.

The customer seeks a refund of sums overpaid between 2007 and 27 October 2017, the date she applied for a meter and was put on the AHC.

Defence

The company states that the customer did not apply for a water meter in 2007 but that the survey was instigated by the company as part of their 'Selective Metering' scheme. The company agrees that the property was deemed unmeterable, but states that the reason the customer was not put on the AHC is that the lower tariff is only available where a customer requests a meter to be fitted in their property but the company is unable to fit one. The company states that, as the customer did not request a meter until 27 October 2017 and has been on the AHC tariff ever since, the customer has been charged correctly and has not made overpayments.

The company asserts that it informed the customer of her tariff and of the need to apply for a meter in order to access the AHC by way of yearly bills and annual information leaflets.

The company also asserts that the survey in 2007 was carried out correctly and that a meter could not be fitted at that time. No offer of settlement has been made.

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Findings

I find that the company instigated the survey in 2007 as part of their Selective Metering Scheme. The AHC is only available where a customer applies for a water meter and the company is unable to fit one. The customer was not placed on the AHC in 2007 because she did not make an application for a water meter until 27 October 2017. Since that date the customer has been charged based on the AHC tariff. The company informed the customer about the way her charges were calculated through her annual bills. The company informed the customer of the need to apply for a meter in order to access the AHC when she made contact with them in September 2017 and through annual billing leaflets. On the balance of probabilities, the survey in 2007 reached the correct conclusion that, at that time, a meter could not be fitted at the customer's property. The company has not failed to deliver the standard one could reasonably expect and has not overcharged the customer. Therefore, the customer's claim does not succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 20 November 2018 to accept or reject this decision.

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apply for a meter in order to access the AHC and states that, even if she had received such information, she would have dismissed the idea of applying for a meter as she had already been told that her property was not suitable.

- The survey in 2007 erroneously found that there was insufficient space for a meter. Furthermore, since this complaint was raised, the evidence she has received shows that the technician did not report that there was insufficient room to fit a meter, but that the flat was on a shared supply and the inside stop valve could not be accessed. The flat is not on a shared supply and the inside stop valve was exposed at the time of the survey in 2007 as she was in the process of having her bathroom refurbished and her builders had not completed the bathroom tiling to box it in. She has been informed by a plumber that a meter could be fitted in the basement of the building, but the company never considered that option at either survey.
- She seeks a refund of charges in the amount of the difference between the RV tariff that she paid from 2007 up until 27 October 2017 when she was put on the AHC Single Occupier Tariff.

The company's response is that:

- In 2007 the [] Water region was designated an area of serious water stress and in 2012 the Department for the Environment, Food and Rural Affairs approved a compulsory metering programme. Prior to this, its statutory powers with regard to compulsory metering were limited to a few situations only and 'Selective Metering' was one of them. Under Selective Metering properties could be assessed for a meter when the company was informed of a change of occupation.
- On 3 July 2007 it was informed that the customer was moving into the property on the 17 July 2007 and a Selective Metering job was raised. Its computer system records of the customer's account show that on 20 July 2007 a technician visited the customer's property to assess whether a meter could be fitted but nobody was in. The technician entered comments on the customer's account record showing that an internal survey was required. An internal survey was required because there was only one outside stop valve. Where a property containing multiple flats only has one outside stop valve, the flats share one external water supply and a meter for an individual flat cannot be fitted externally. An internal survey is required to determine whether a meter to capture the supply of water to the individual flat can be fitted inside the flat.
- The internal survey took place on 4 August 2007 and the customer's account records supplied in evidence show that the technician recorded that the property had a shared external supply and the internal stop valve could not be located. Locating the internal stop valve is important as it is where meters are fitted internally and the technician would need to ensure that isolation of the

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internal stop valve stops all the water outlets in the property. As the internal stop valve could not be located, the technician made notes stating “over cost” and “3 or more meters required”. As the inside stop valve could not be located and the supply isolated, the technician could not determine that the internal stop valve was the only water supply coming into the property. The technician made the assumption that three meters may be required to capture the supply, as is common in flats; one for the bathroom water supply, one for the kitchen water supply and one for the boiler/communal water tank water supply. The term “over cost” refers to the fact that fitting three or more meters was not within budget for the Selective Metering programme and, therefore, the property was deemed unmeterable.

- The customer should not have been put on the AHC in 2007. Section 143 sub-clause 4(1) of the Water Industry Act 1991 which states “*where a consumer has exercised a statutory right to elect for charging by reference to volume and [] Water has determined that fitting a meter would either not be reasonable practicable or incur unreasonable expense, the amount payable for supplies to a house under this sub-clause 4(1) shall be the assessed household charge.*”
- The customer did not *exercise her statutory right* to elect for charging by reference to volume until 27 October 2017. The 2007 survey was not undertaken because the customer exercised her statutory right to request a meter, but because it exercised its statutory powers under the Selective Metering programme. Therefore, the customer was not entitled to the AHC tariff (or the equivalent charging tariff named the ‘Average Household Charge’) in 2007.
- Since the customer exercised her right to request a meter on 27 October 2017, the customer has been on the AHC as a meter cannot be fitted until the customer makes alterations allowing access to the inside stop valve. As a gesture of goodwill, it agrees to back-date metering charges to 27 October 2017 once the customer has completed the work and a meter is fitted.
- The customer was informed that she needed to apply for a meter in order to access the AHC when she made contact on 28 September 2017, which was the first direct contact with the customer since 3 September 2007. Every annual bill outlined that the customer’s charges were based on the rateable value of the property and the annual billing leaflet of 2007, 2008 and 2009 included an explanation that, where an application for a meter is made but a meter cannot be fitted, customers are placed on the AHC. It cannot be held responsible for the customer failing to read the information contained on the bill and in the annual billing leaflet.
- The technician who conducted the 2007 survey did not misinform the customer. Although the record of the survey supplied in evidence does not state that there was insufficient room to fit a meter in the bathroom, the photographs of the space show that there was probably insufficient

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room to fit the size of meter available in 2007. The reason the 2017 survey concluded that a meter could be fitted is because meters are now smaller in size.

- The photograph of the pipework taken in 2017 demonstrates that fitting a meter would have been over cost under Selective Metering even if there had been the available space to fit one, as the pipework would have needed altering and this would have been beyond the available budget.
- The technician's report completed on the day of the survey states "no ISV" and this implies that the inside stop valve was not exposed when the survey was conducted. Had the inside stop valve been exposed but there was insufficient room to fit a meter, the technician would have noted "insufficient room".
- It was not aware that the building had a basement and it is unsure whether the technician knew, but it is happy to survey the basement with a view to fitting a meter, subject to there being a stop valve for the customer's property. As a gesture of goodwill, it offers to backdate metering charges to 27 October 2017 if a meter can be fitted in the basement.

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. For clarity I state 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 one would reasonably expect.
2. The customer has not submitted any substantive evidence to show that she requested a survey to assess whether she could have a meter in 2007. However, the company has provided contemporaneous evidence in the form of screenshots of their computer records of the customer's account to show that the survey carried out on 4 August 2007 was instigated by the company as part of Selective Metering. I find this evidence persuasive and conclude that the survey carried out on 4 August 2007 was instigated by the company and the customer did not apply for, or initiate an enquiry about, a meter at this time.
3. Having reviewed Section 143 sub-clause 4(1) of the Water Industry Act 1991, I accept the company's submission that under its charging scheme a customer must apply for a meter before they can be considered for the AHC. It therefore follows that, as the customer did not apply for a meter in 2007, she was not put on the AHC and was correctly charged the RV tariff until her application for a meter on 27 October 2017.
4. The customer understood that she would be put on a lower charge because a meter could not be fitted and she assumed that she was on the lower tariff until she closely read her bill in September 2017. The customer has not supplied any supporting evidence or explained why she thought she would be put on a lower tariff. The company has provided bills from 2007 to 2017 which include a section entitled "How we work out your bill" which states "Water supply and wastewater charges. These are calculated by applying a rate per pound for water and wastewater to the chargeable value of your home". I therefore find that the company supplied the customer with annual bills clearly showing that she was on the RV tariff and not the AHC. I am satisfied that the company took reasonable steps to notify the customer of the tariff she was on by way of clearly stating this information on her bills.
5. The customer also complains that she was not informed of the need to apply for a meter in order to access the AHC. The company has provided the annual billing leaflets from 2007, 2008 and 2009 which include articles entitled "Thinking about having a meter?" and these explain that where a customer has applied for a meter but cannot have one installed, they will be offered the

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AHC. The customer accepts that she received the bills but states that whether the annual billing leaflets were inserted in her bills is a “moot point”. On balance, I find it more likely than not that the billing leaflet was sent to the customer. The company also states that the customer did not directly contact them between 7 September 2007 and 28 September 2017, but when she made contact they explained the need to apply for a meter to access the AHC and, having considered the evidence, I accept this to be the case. I find that the company took reasonable steps to inform the customer that it was necessary to apply for a meter to access the AHC by way of clearly stating this in the annual billing leaflets and informing her when she made contact by telephone.

6. I find that the crux of this issue is that the customer was not aware that, even though her property had been assessed for a meter and she believed that she could not have one, she still needed to apply for a meter to access the AHC. The customer states that she would have dismissed any information regarding applying for a meter because she had been told she could not have one.
7. I accept that the customer was not aware that whether the meter survey was instigated by her or the company would make such a difference to her eligibility for the AHC. However, I do not find that the company has failed to provide its services to the standard to be reasonably expected by the average person in this regard. The company’s charging policy is transparent on the annual bills, the articles on metering in the annual billing leaflets are not misleading and the company correctly informed the customer when she first made contact with the company about the issue. The company did not make specific direct contact with the customer to explain the situation, but I have been provided with no evidence to persuade me that the company was obligated to do so. Had the customer noticed how she was being charged and contacted the company sooner, I am persuaded that the company would have explained that she needed to apply for a meter to access the AHC even though her property had been deemed unmeterable in 2007.
8. The customer complains about the quality of the survey in 2007 and I note her stated reasons for this. However, I find the contemporaneous written evidence supplied by the company more reliable than the customer’s, unsupported, recollection of the events. I accept that an external meter could not be fitted due to a shared external supply. I also find it more likely than not that the inside stop valve could not be accessed by the technician on the day of the report as this is recorded in the technician’s report, and this led to the assumption that three meters may be required and the job was over cost. However, the customer believes she was told that there was

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no room for a meter and, considering the defence evidence that the size of meter being fitted in 2007 would probably not have fitted in the space shown in the photograph taken during the survey in 2017, I accept that the technician said this to the customer.

9. Having reviewed the technician's notes and the further information the company has provided in its submission regarding the size of meters in 2007 and the issue with the pipework, I find that there were several reasons a meter could not be fitted in the customer's property in 2007; there was insufficient room, the pipework alterations would have been over cost and the inside stop valve was not exposed. I do not find the inconsistency in what was said to the customer and what was recorded on the account notes important to the outcome of this adjudication. The relevant point is that, regardless of what the customer was told at the time of the survey, the technician concluded that a meter could not be installed at the property under Selective Metering and I find it more likely than not that this was the correct conclusion, at that time. I accept the company's assertion that it was not aware that there was a basement in the building at the time of the survey and I do not find that this amounts to a failing on the company's behalf. Therefore, I cannot find that the quality of the survey fell below the standard to be reasonably expected by the customer.
10. In view of all of the above, there is no evidence to show that the company has acted contrary to any law or code or charged the customer incorrectly, or that the company has failed to provide its services to the standard to be reasonably expected. Consequently, the customer's claim cannot succeed.

Outcome

The company does not need to take any further action.

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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.
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KS Wilks

Katharine Wilks

Adjudicator

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