

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0909

Date of Decision: 3 December 2018

Complaint

The customer applied for a surface water rebate. This was backdated to April 2014. The customer submits that the company should reasonably have known that his property did not have surface water drainage based on it granting a rebate to a neighbouring property some years previously.

Defence

The company visited a neighbouring property in 2009 and confirmed that their surface water was not draining to a public sewer. The properties on Ash Road are not fully accessible from the road. Pictures of the properties show rainwater goods, but not clearly how they drain away. The company must approach investigations in a way that is not time consuming or expensive. It would not have been easy to assume that the customer's property was not draining surface water into the company's assets when it visited a neighbouring property in 2009.

Findings

In order to be entitled to the surface water drainage rebate being backdated, the company must reasonably have known that the customer's property did not drain surface water into the company's sewers. The properties on Ash Road have guttering and downpipes, some located to the side and rear of the properties. It would not have been possible to confirm where these drained to without visiting the individual properties. It is not enough that the company could say it was more likely than not that the property did not benefit from surface water drainage; it had to reasonably know this to be the case. The presence of surface water drainage that could not be inspected meant the company could not reasonably have known that the property was not connected for surface water drainage.

Outcome

The company does not need to take any further action.

The customer must reply by 4 January 2019 to accept or reject this decision.

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arrangements at the customer's property would be the same. The neighbouring properties may appear to be of a similar layout, but are not fully accessible from the road. The company is of the opinion that, from the position of the properties in the street, it would not have been easy to assume that the customer's property did not have surface water drainage. The company must approach investigations in a practical way that is not time consuming and expensive. The company often finds properties in a street with different drainage arrangements and this could have been the case in Ash Road. Individual applications and visits would be needed to fully assess eligibility. The company denies that the customer's surface water rebate should be backdated to 2011.

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 applied for a surface water drainage rebate in November 2017. This was backdated to 1 April 2014, in line with the company's policy. The customer claims the rebate back to 2011 when he moved into the property, on the basis that the company would reasonably have known that his property did not have surface water drainage.

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2. I note that Ofwat guidance states that a water company “might reasonably be expected to have known that your property was not connected to its sewerage system for surface water drainage”. I therefore find that it is necessary to determine whether the company should reasonably have known that the customer’s property did not have surface water drainage.
3. I note that a neighbouring property applied for a surface water drainage rebate in 2009. The company visited and confirmed that that property did not drain surface water into the company’s assets.
4. The company denies that it would have been reasonably aware that the neighbouring properties would also not drain surface water into its assets. The company has provided images of the properties on the customer’s street, Ash Road.
5. I note that the customer’s property is two storeys, whilst neighbouring properties are largely bungalows. Each property has visible guttering, including downpipes. These downpipes are located to the front of the properties, but are also visible travelling to the side or rear of a number of properties, including the customer’s.
6. I am mindful that the company did visit the customer’s street in 2009. I accept that it would not be possible to confirm that other properties did not drain surface water into the company’s assets without visiting these properties, due to the downpipes being visible to the sides and rear of the properties. I accept that an inspection would be required to confirm that these downpipes did not drain into the company’s assets.
7. I find that, in order to be entitled to the rebate being backdated to 2011, the customer must show that the company was ‘reasonably expected to have known’. I find that this is a higher standard than the company being aware that it was likely that other properties would not drain surface water into its assets.
8. In this case, I find that the presence of downpipes that could not be accessed from the road, and therefore requiring a property visit to be inspected, means that the company could not reasonably have known that the customer’s property did not drain surface water into the sewer. Whilst the company could have deemed it more likely than not that the customer’s property did not benefit from surface water drainage, I am not persuaded that this amounts to knowledge of the factual situation at the customer’s property. I also find that, as the downpipes are located to

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the side and behind the properties, it would not have been reasonable for the company to inspect the properties on Ash Road in 2009 as it could not have done so without gaining access to the neighbouring properties.

9. In view of this, I am not persuaded that the company should reasonably have known that the customer's property did not benefit from surface water drainage as it could identify guttering and downpipes but was not able to confirm where these led. I am therefore not persuaded that the customer is entitled to the surface water drainage rebate being backdated to 2011. The customer's 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 4 January 2019 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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