

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0917

Date of Decision: 25 October 2018

Complaint

The customer is being charged for water use at an unused workshop that does not have a water connection. The customer uses water at his home only, on an unmeasured basis. The charges are unfair as the water supply is not feeding the workshop and water is not used there. The customer requests that the company stop billing for the workshop and refund any erroneous charges.

Defence

The customer is charged on an unmeasured basis for the workshop based on the rateable value on the Valuation Office Agency website. This is due to the workshop having the beneficial use of the customer's unmeasured residential water supply. The customer would need to have the Valuation Office Agency register updated for it to stop charging for the workshop.

Findings

The workshop continues to be registered as a commercial premises and it is on this basis that the company applies water charges. The customer's cottage does not have a water meter, meaning the customer can only be charged for water use based on the rateable value of each premises. The customer could request a water meter be fitted to his house to remove the commercial water charges for the workshop, however a highways drainage charge would remain. The customer needs to contact the VOA to have the workshop removed as a commercial property as, whilst it remains listed, the company must charge for the workshop having the beneficial use of an unmeasured water connection.

Outcome

The company does not need to take any further action.

The customer must reply by 22 November 2018 to accept or reject this decision.

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Date of Decision: 25 October 2018

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The customer is being charged for a water for a workshop premises, despite this not having a water connection and being unused for many years. The customer uses water at his home only. The customer's home is not metered and the customer pays unmeasured charges based on the Rateable Value. The customer submits that the charges for the workshop should not be raised and the account should not have been transferred to the company following deregulation of the water industry in April 2017. The company has accepted that workshop is not in use. It is unfair that the customer is expected to pay full unmeasured charges for the workshop on a commercial rate.
- The customer requests that the company stop billing for the workshop and refund any erroneous charges since 2005, and to acknowledge that there is no water supply or sewerage connection to the workshop.

The company's response is that:

- The company submits that the account is charged on the rateable value based on the Valuation Office Agency (VOA) listing on their website. The customer's business is still showing on the VOA website; the charges would not be removed whilst it remains on the website. The company is not able to disconnect the account and backdate charges as the property remains active on the VOA website. The workshop does not have any water or waste connections on site. However, the residential property located on the same site, Oak House, is also owned by the

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customer. The workshop has the beneficial use of the water supply to Oak House. The wholesaler's scheme of charges incorporates the beneficial use policy. The customer raised this issue with RST Water on 8 March 2012 and a full response was sent to him, advising that he would need to have the VOA updated and that he would continue to be charged until this was done. The [] Borough Council letter advises that the property listing would need to be removed as the property would now be charged by the council. The customer will continue to be charged under the beneficial use policy set out by the wholesaler until the VOA has been updated.

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 lives at Oak House. On this site there is also a workshop, used by the customer for business purposes until 1985. It is agreed that the workshop does not have any independent connection to water or sewerage services. However, as it is on the same site as Oak House, the workshop has the beneficial use of the water and sewerage connections to Oak House.

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2. The customer has two water accounts: a residential water account relating to Oak House; and, a commercial account with the company for the workshop, this account having been transferred to the company in April 2017 following the opening of the water market.
3. The customer does not have any water meter fitted at Oak House and is charged for water and sewerage by reference to its rateable value. The evidence is unclear as to whether the customer has requested a meter be fitted to Oak House or only to the workshop, this latter being impossible due to the absence of any independent water connection to the workshop.
4. At this point, it is useful to set out the scope of the Water Redress Scheme in respect of the company. The company is a water retailer, billing the customer for the water services provided by the water wholesaler. In order to make a decision in this dispute, I must clearly distinguish between actions taken by the wholesaler, and the duty owed by the retailer, the company, to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers and accounts have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, the adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, a party to the case, has responsibility, but not those things for which the wholesaler has responsibility.
5. In this case, I am satisfied that the commercial water account for the workshop is legitimate as it is based on the property being listed and valued as a commercial premises on the Valuation Office Agency website.
6. The company, as retailer, has a duty to charge the customer for the water services provided by the wholesaler in line with the wholesaler's scheme of charges. The wholesaler's scheme of charges is approved by Ofwat.
7. The company has provided the relevant section of the wholesaler's scheme of charges, relating to beneficial use. The scheme of charges states that the wholesaler, and therefore the retailer, will "raise water supply charges where a property does not have a direct supply of water, but has the use, or entitlement of use of water supplied elsewhere on an unmeasured basis".

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8. As above, I am satisfied that Oak House is billed on an unmeasured basis, and that the workshop does have the beneficial use of the water supply to Oak House. I therefore find that the premises does meet the criteria for water charges to be raised.
9. I acknowledge that this appears unfair to the customer as he has not used the workshop as a commercial premises since 1985. However, I note that the policy includes the reason for the charges that includes an explanation for why the charges are applied irrespective of the actual use of the workshop. Where a commercial premises has the benefit of a water connection supplied to another property that is charged on an unmeasured basis, the company and the wholesaler have no way of knowing how much water is being used, by each property or in total. It therefore raises charges against the rateable value for the premises with the water supply to cover the ordinary use of water on that premises, and against the rateable value of the commercial premises to account for the ordinary use of water on that property through the first property's water connection.
10. The rateable value is an unmeasured charge based on factors such as the size of the property. The water charge applied by the company reflects the potential water usage during the normal use of a property of that size and value, based on the rateable value. In this case, the customer is being charged for both the potential use of Oak House and the potential use of the workshop. The company has no way to determine how much water is actually used, either directly at Oak House or beneficially at the workshop. I accept the customer's submissions that, as the workshop is not in use, there is no beneficial usage at the workshop, however, I am not able to make any finding as to the fairness of the wholesaler's charging policy due to the limited scope of the Water Redress Scheme.
11. The beneficial use policy continues to confirm that, where the water is being charged to the connected property on a measured basis, the beneficial property would not be charged for water. The reason for this is that, on a metered connection, the company and the wholesaler will be fully aware of the amount of water being supplied to the connection to the main property and the beneficial users. It will then charge the main property for all actual usage.
12. I am satisfied that, whilst the workshop remains on the Valuation Office Agency website as a commercial property, the company must apply charges to it based on it having unmeasured, beneficial usage of the water supply to Oak House.

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13. In accordance with the beneficial use policy, the water charges for the workshop may be removed by the customer having a water meter fitted to Oak House, should this be possible. The charges would only be removed once the meter had been installed as it is only from this date that the parties will be able to confirm the water usage to both premises. However, it may not be possible for a water meter to be fitted to Oak House and, additionally, the company would still apply a highways drainage charge in respect of the workshop.
14. In order to have the workshop account closed, it is necessary for the workshop to no longer be registered as a commercial property. This will require the customer to contact the Valuation Office Agency to request that the workshop is removed from their register. I am satisfied that, whilst the workshop remains on the Valuation Office Agency register, the company must apply commercial water charges in respect of this premises as it is deemed to be a separate premises with beneficial access to the water supply of Oak House.
15. In reviewing the evidence, I find that the company and its predecessor, RST Water, have clearly advised the customer that he needed to contact the Valuation Office Agency in order to close the water account. I am satisfied that this advice is correct. I find that there has been no failure by the company to provide services to the standard expected by a reasonable water retailer. For these reasons, the customer's claim is 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 22 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, cursive 'A' followed by a long horizontal line that ends in a small flourish.

Alison Dablin, LL.M, MSc, MCI Arb

Adjudicator

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