

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0922

Date of Decision: 19 September 2018

Complaint

The customer states that he is being overcharged by the company for surface water and highways drainage. He requests a reduction in his surface water and highways drainage charge.

Defence

The company states that it has charged the customer correctly in accordance with its Charges Scheme, which adheres to the applicable rules adopted by Ofwat. No offer of settlement has been made.

Findings

The company has established that it has charged the customer in accordance with its Charges Scheme, and so has provided its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 17 October 2018 to accept or reject this decision.

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- The amount of the fixed charge is set at a level appropriate to recover the cost of providing SWHD services.
- The SWHD charge being paid by the customer now that his property is metered is lower than it would have been if it had not been metered.
- The company's Charges Scheme confirms that it is the occupier of a property that is liable for SWHD charges, unless another party has agreed to pay these charges.
- The company has received no evidence that the customer's landlord is willing to pay the SWHD charges being billed to the customer.
- If no water draining from a property enters the sewerage network, then it is possible for the SWHD charge to be removed. However, the customer has acknowledged that at least some of the water draining from his property enters the sewerage network.
- The company believes it is providing its services to the customer to the standard to be reasonably expected by the average person.

The customer's comments on the company's response are that:

- Two days is an inadequate period in which to provide comments on the company's defence.
- The area outside his flat is the responsibility of the landlord.
- Only a small amount of water from the roof of the building drains into the sewer, and that could be directed to drain away into the ground.

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.

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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. As a regulated water retailer, the company is required to bill its customers in accordance with a published Charges Scheme. This scheme must adhere to rules adopted by Ofwat, the Water Services Regulation Authority, the designated regulator in this sector.
2. The consequence of this is that, as specified in Rule 3.5 of the Water Redress Scheme Rules, a WATRS adjudicator does not have the authority to evaluate the fairness or correctness of a company's Charges Scheme, as this responsibility has been statutorily allocated to Ofwat.
3. Instead, with respect to the type of claim brought by the customer, a WATRS adjudicator may only examine whether the company has properly adhered to its published Charges Scheme.
4. As a result, the customer's overall objection to company's approach to the billing of SWHD charges does not succeed, as this represents a challenge to the company's Charges Scheme, rather than to the application of that scheme to the customer's specific situation.
5. The customer has also argued that the outside of the building is the responsibility of the landlord, and something over which he has no control. He suggests that it is unfair that he is being charged for water drainage even though he has no ability to control where the water drains.
6. While I understand the customer's concerns in this respect, the company has established that it is charging the customer in accordance with its Charges Scheme, and the customer has not established that his landlord has agreed to pay these charges instead of the customer. The customer highlights a section of his lease that outlines the landlord's responsibilities, however this relates to repair and maintenance of drains, gutters and pipes, among other things. It does not show a commitment by the landlord to pay SWHD charges that would otherwise be billed to the customer.

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7. While I understand the customer's unhappiness at being billed for water drainage despite being unable to affect how water drains from his building, it is likely that if the customer's landlord agreed to pay this cost, that charge would then simply be "passed on" to the customer in the form of higher rent.
8. The customer also questions why his SWHD charge has not varied despite there being little rain this summer. However, the company has explained that under its Charges Scheme it applies a regular SWHD charge, rather than varying the charge to reflect variations in rainfall, and as stated above questions of the fairness or correctness of a company's Charges Scheme must be addressed by Ofwat.
9. The customer also objects to only being given two days in which to comment on the company's defence.
10. I acknowledge that this is a short period for review of a company's defence and submission of comments, however this is the period expressly stated in Rule 5.4.3 of the Water Redress Scheme Rules. As a result, this is not a time limit that as an adjudicator I have the power to adjust. Whether allowing customers more time to submit their comments on the company's defence would result in more considered submissions, and thereby enhance the WATRS adjudication process, is a decision that must be undertaken when the Water Redress Scheme Rules are next revised.
11. In view of the above, I find that the company has provided its services to the customer to the standard to be reasonably expected by the average person, and the customer's claim does not succeed.

Outcome

The company does not need to take any further action.

What happens next?

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- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 17 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.
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Tony Cole

Tony Cole, FCI Arb

Adjudicator

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