

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0981

Date of Decision: 13 September 2018

Complaint

The customer states that when his water meter was fitted by the company, it operated a 'Watertight Promise' policy. The customer states that this promised that the company would repair/replace the water supply pipe free of charge (when necessary) for as long as he lived in his property. In 2013, the 'Watertight Promise' policy was discontinued by the company. The customer believes that the company cannot legally discontinue this policy as it had already promised that it would last for as long as he lived in his property. Consequently, the customer's only claim is for the company to honour the 'Watertight Promise' in the future (should his supply pipe ever need replacing/repairing).

Defence

The company confirms that it did operate a 'Watertight Promise' policy where it promised to replace/repair customer supply pipes for free (when necessary). However, in accordance with the terms and conditions applicable to the 'Watertight Promise' (as submitted in the company's evidence), the company reserved the right to withdraw this policy at any time. The company explains that it exercised its right to withdraw the policy in April 2013 as it was no longer cost-effective. The company states that before making the decision to withdraw the 'Watertight Promise', it consulted with CCWater (Consumer Council for Water) and sought their approval. The withdrawal was supported by CCWater. Accordingly, the company does not accept any liability for the customer's claim for redress.

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Findings

Based on the submissions provided, I am not satisfied that the company failed to provide its services to the standard to be reasonably expected by the average person. The company has demonstrated with evidence that it was entitled to withdraw the 'Watertight Promise'. Consequently, in the absence of any failures on the part of the company, I am unable to uphold the customer's claim for redress.

Outcome

The company does not need to take any further action. The customer is not obliged to accept this decision and is free to further their complaint through all other avenues as available to them.

The customer must reply by 11 October 2018 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 13 September 2018

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- When his water meter was fitted by the company, it operated a 'Watertight Promise' policy. The customer states that this promised the company would repair/replace the water supply pipe free of charge (when necessary) for as long as he lived in his property.
- The customer states that, in 2013, the 'Watertight Promise' policy was discontinued by the company. The customer believes that the company cannot legally discontinue this policy as it had already promised that it would last for as long as he lived in his property.
- In light of the above, the customer's only claim is for the company to honour the 'Watertight Promise' in the future (should his supply pipe ever need replacing/repair).

The company's response is that:

- The company confirms that it did operate a 'Watertight Promise' policy where it would replace/repair customer supply pipes for free (when necessary).
- However, in accordance with the terms and conditions of the 'Watertight Promise' (as detailed in the company's evidence), the company reserved the right to withdraw this policy at any time.
- The company explains that it exercised its right to withdraw the policy in April 2013 as it was no longer cost-effective.
- The company states that before making the decision to withdraw the 'Watertight Promise', it consulted with CCWater and sought their approval. The withdrawal was supported by CCWater.

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- The company states that, in light of all the above, it does not accept any liability for the customer's claim for redress.

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. The customer's claim is that the company should not legally be entitled to withdraw its 'Watertight Promise' policy because this promised that it would repair/replace his water supply pipe free of charge (when necessary) for as long as he lived in his property. The customer's only claim is for the company to honour the 'Watertight Promise' in the future; should his supply pipe ever need replacing/repair.
2. I remind the parties that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it.
3. It is not in dispute that, in April 2013, the company withdrew its 'Watertight Promise'. Following careful examination of the terms and conditions applicable to the company's 'Watertight Promise' policy (as provided in the evidence submitted for adjudication), I note that it expressly states; "*Our Watertight Promise and these terms and conditions may be withdrawn or varied by [] at any time*".
4. Further to the above, I note that the decision to withdraw the 'Watertight Promise' was only made by the company after consultation with CCWater (I find that this is confirmed in CCWater's letter to the customer dated 17 July 2018).
5. Accordingly, under the circumstances, I am unable to conclude that the company's decision to withdraw the Watertight Promise (in accordance with the terms and conditions of the policy) following consultation with CCWater amounts to a failure to provide its services to the standard to be reasonably expected by the average person.
6. I note that the customer has highlighted a company pamphlet titled 'Your guide to water metering'. He states that there is a section in this document that mentions the 'Watertight Promise' but does not detail any terms and conditions. Therefore, the customer believes that, legally, there should be no terms and conditions for the 'Watertight Promise' and the company should continue to provide this for as long as he lives in his property. Whilst I appreciate that the particular section of the pamphlet submitted by the customer mentions the 'Watertight Promise' and does not appear to highlight any terms and conditions, I am not satisfied that this amounts

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to conclusive evidence that the 'Watertight Promise' was an irrevocable guarantee, and not subject to any terms and conditions. Specifically, upon examination of the pamphlet, I note it indicates that customers should contact the company for more information. In any event, it is clear that the customer's complaints on this issue raise complicated issues of law (for example; whether legally, all applicable terms and conditions should be expressly highlighted on each occasion a guarantee is mentioned in a document and/or whether the company was legally entitled, following consultations with CCWater, to withdraw a guarantee described as 'unlimited' and for a 'lifetime'). I draw attention to the fact that, in accordance with the rules of this scheme, I am unable to examine or address any complaints which raise complicated issues of law. Accordingly, I am unable to address this issue any further.

7. Therefore, following careful review of all the submissions provided, I am not satisfied that the company has failed to provide its services to the standard to be reasonably expected by the average person. Consequently, in the absence of any failures on the part of the company, I am unable to uphold the customer's claim for redress. I draw attention to the fact that the customer is not obliged to accept this decision and is free to further their complaint through all other avenues as available to them.

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 11 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.



E. Higashi LLB (Hons), PGDip (LPC), MCI Arb.

Adjudicator

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