

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1025

Date of Decision: 15 April 2019

#### Complaint

The customer asserts that he has a large swimming pool; 32 x 16 x 5 metres and cares for six to ten German Shepherd dogs at his property such that they account for 50% of the water supplied (from the mains) not returning to the sewers. The company has refused his request for a Non Return to Sewer allowance to reflect this. In relation to the company's suggestion to install a sub meter to measure the amount of water disposed of, he shares a drain with his neighbour and so this is not possible. The customer refers to one occasion whereby the company advised over the phone that he was entitled to a greater discount to his wastewater charge however he was then informed this advice was incorrect. The customer seeks a discount to reflect that 50% of his mains water does not return to the sewer.

#### Defence

The company asserts that the onus is on the customer to demonstrate that the percentage of water not being returned to the sewer is consistently and significantly less than 92.5% percent of the mains water being supplied, in order to qualify for a greater discount. It asserts that in reviewing its management of the customer's account, it agrees that a 90% percentage figure should have been applied (to the customer's waste water charge) from February 2016 and also that additional credits are due because of charges and adjustment made by the customer's water supplier that it failed to mirror. The company did not make any offer of settlement.

#### Findings

The company is entitled to apply a wastewater charge based on 92.5% of the volume of water supplied. In accordance with its Charges Scheme, where a customer shows that the amount of water being returned to the sewer is consistently and significantly less than 92.5% it will agree to a greater discount (by way of a Non Return to Sewer allowance) depending on the amount shown. It agrees to adjust this percentage to 90% in the customer's case (effective from 4 February 2016) resulting in a credit of £43.55. Further, it confirms that it will apply further credits to mirror reductions that South East Water had applied to the customer's water supply charges and also to take into account an adjustment for the water used to fill his swimming pool. The company also agrees to apply a credit of £700.00 for its failures in customer service, making the total credits provided £2,986.48. The company's

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calculations support the total amount of credits agreed and there is insufficient evidence to demonstrate that 50% of the amount of water supplied to the customer does not return to the company's assets or any more than the 10% agreed by the company.

**Outcome**

The company is not required to taken any further action (other than that which it has already agreed to).

**The customer must reply by 15 May 2019 to accept or reject this decision.**

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1025

Date of Decision: 15 April 2019

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

### **The customer's complaint is that:**

- He has a large swimming pool; 32 x 16 x 5 metres that it backwashed four times a year and emptied and cleaned; this water does not return to the sewer as it runs into a soakaway.
- He has six to ten German Shepherd dogs that each drink ten litres of water per day and therefore not all of the water used returns to the sewer.
- The customer asserts that the company advised him at one point that his bill should only be £1,200.00 then two weeks later he was informed that the company's representative who had advised him of this, had been wrong and had since left.
- The company has suggested he get a sub meter however this is not possible as he shares drain with his neighbour.
- He requests a discount on the bill for the non return of the wastewater to the sewer.

### **The company's response is that:**

- To clarify, the customer's account is now subject to a joint billing agreement with [ ] Limited (RST WATER) and the wastewater account transitioned to RST WATER with effect from 27 February 2018. The customer's outstanding account balance was £7,617.85 at this date (for the period up to 26 February 2018) therefore it will only consider his complaint up to this date.
- It acknowledges that the customer disputes the wastewater volume charge element of his wastewater charges and that he seeks a retrospective reduction to the wastewater disposal volume of 92.5% of the total volume of water consumed at the property. The company states

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that the wastewater volume charge is calculated using the volume of water supplied. It is an assessed charge determined by reference to 92.5% of the volume of water consumed as recorded by the water meter (an allowance of 7.5 % is applied to take account any water which does not return to the public sewerage system).

- In order to obtain a Non Return to Sewer (NRTS) allowance, a customer must show to its satisfaction that the volume of water discharged from a premises is consistently significantly less than 92.5% of the volume of water supplied. If this is demonstrated, a reduced NRTS percentage will be agreed and charges backdated on this basis to the date of the last bill issued to a customer, preceding receipt of the claim.
- Reduced NRTS allowances require the circumstances to differ significantly from typical domestic water usage and a customer must take positive steps to apply for a NRTS reduction.
- This can be done by having a separate water supply installed at the customer's own cost so that part of the premises where water does not return to the sewer, for example, for outside use such as described by the customer in his application, can be measured. In this instance the supply would not attract any wastewater charges. Alternatively, a practical solution to measuring the percentage of water that does not return to the sewer is by way of a private sub meter. This can be installed by the customer at their own expense, on that part of their private water supply where the water usage does not return to the sewer. This would measure the actual usage of water not returning to the sewer, for example on an outside tap. The full details of its NRTS allowance are set out in its Charges Scheme.
- As an exception, it will offer a discretionary reduction if a property has a domestic swimming pool which contains more than twenty cubic metres of water. In these circumstances it will increase the NRTS allowance by 2.5 % to 90%.
- Following the customer's Application to WATRS, it has undertaken a review of the account and it is prepared to agree a discretionary reduction to the customer's NRTS allowance to 90% however it is not satisfied that the steps taken by the customer are sufficient to demonstrate that the water returning to the sewer is consistently lower than 92.5%.
- It recognises that there have been several service failures when dealing with the customer's account and it would like to apologise to the customer and assure him that it has taken steps to correct any errors identified as follows:
  - It has applied a credit of £1517.24 to mirror the credit given by RST WATER for the period 29.11.07 to 31.03.10 in respect of volumetric charges. This has been done for the full period, despite part of the period not having been billed by it (calculated using the 2009/2010 charging rates, which is financially beneficial to the customer).

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- A credit of £43.55 will be applied in lieu of a reduction to the NRTS percentage from 92.5% to 90% for the period 04.02.16 to 26.02.18 (calculated using the 2017/2018 rates, which is financially beneficial to the customer).
- A credit of £504.45 will be applied to mirror the leak allowance given by RST WATER of 250 cubic metres for the period 03.02.16 to 17.03.17.
- A credit of £109.76 will be applied as an adjustment for the customer filling the swimming pool for the period 01.04.16 to 31.03.17.
- A credit of £11.48 will be applied as an adjustment for the customer filling the swimming pool for the period 01.04.17 to 31.03.18.
- Therefore, a request has been sent to RST WATER to credit the customer's account with this amount (£2,286.48) and advice has been sent to RST WATER to the effect that the percentage NRTS figure should be 90%, as it should have been at this level when the account has transitioned.
- Having consulted the WATRS Guide to Compensation for Inconvenience and Distress, it acknowledges that the events fall into the Tier 3 of the Guidelines and has applied a credit of £700.00 accordingly to recognise the issues experienced. Therefore including this amount, the overall credit it is providing to the customer is £2,986.48. A letter has been sent to the customer explaining the actions taken.

## Reply

- The customer is unhappy with the reduction to 90%; there are three people living in the property and therefore the mains water used for domestic purposes is not very much. Regarding the goodwill gesture from 2007 to 2010, the customer asserts that he filled out the appropriate NRTS forms in 2007 that the company cannot find. He refers to professional evidence showing how much water goes "down the field" when the swimming pool is backwashed. He reiterates his request for a greater discount on the bill for the non-return of the wastewater to the sewer and suggests a 50% reduction to the NRTS percentage going back to 2007.

## Company's Comments

- Its records indicate that the customer's account at the property was not opened until July 2008 with the first wastewater bill issued on 12 March 2009. The first completed NRTS allowance application was received from the customer on 27 April 2009.

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- In relation to the professional witness evidence referred to, this has not been disclosed to it. The company reiterates the circumstances in which a further NRTS allowance would be considered. It would be prepared to consider any professional evidence that is supplied.

### **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. I acknowledge that the customer's (residential) account has now been transferred to RST WATER (the customer's water supplier) for joint billing (from 27 February 2018), as such this adjudication will only consider the timeframe up to this date whilst the company provided the customer with its sewerage services.
2. I remind the parties 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 would reasonably be expected of it.
3. The customer has supplied evidence in support of his claim including a bill dated 22 February 2019 from RST WATER (his latest bill) and evidence from [ ] Healthcare NHS Trust. The company has supplied its Charges Scheme (2017 to 2018) and an extract from its

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WaterSure scheme (Entitlement to assistance with Charges), in support of its stated position. I also acknowledge receipt of the Consumer Council of Water (CCW) document bundle.

4. The dispute relates to the wastewater volume charge element of the customer's wastewater charges in respect to his property address: [ ](the Property). In light of the company's Charges Scheme, I accept that the company is entitled to charge customers for its sewerage services comprising of a standing charge and a wastewater charge, determined by reference to 92.5% of the volume of water supplied to the property address. The company has set out the circumstances it will grant a NRTS allowance, i.e. a discount to the 92.5% percentage charged. I find that in order to prove eligibility, it is clear that the customer must demonstrate that the volume of water that returns to the company's assets is consistently and significantly less than 92.5% of the volume of (mains) water supplied to the property address. The company has also evidenced other allowances it provides, including a one off wastewater allowance when it is shown that the water used to fill the customer's swimming pool, does not return to the sewer.
5. I acknowledge from the evidence that the customer has applied for NRTS allowances in the past and yet no NRTS allowance has been granted by the company. I find that the basis of the customer's claim for a reduction is that he has a large swimming pool; 32 x 16 x 5 metres (with soakaways) and due to his wife breeding dogs at the property; she has between six and ten German Shepherd dogs (at any one time) that each drink 10 litres of water per day.
6. Based on the evidence, including the company's responses included in the CCW documentation, I find that the customer's application(s) for an NRTS allowance has been rejected as the company has not been satisfied that he has met the criteria to qualify for a reduction to the 92.5%. Whilst the company has not disputed that the customer has both a large swimming pool (with soakaways) and the stated number of dogs at the property which would account for a proportion of the water not returning to the sewer, it has suggested that in order to gauge the amount of water, it would be necessary for the customer to install either a separate water supply installed on the part of the premises that water does not return to the sewer or a private sub meter to measure the percentage of water that does not return to the sewer (the customer would be responsible for providing the company with regular meter readings). I acknowledge that the customer has said that installation of a sub

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meter is not possible as he shares drain with his neighbour, however, in its responses the company has argued that as the meter will be installed on the fresh water pipes, the shared sewer connection will not affect the sub meter fitted.

7. Having reviewed the case papers, I cannot see that the customer has supplied any evidence for example, from an expert or professional, to prove that the amount of water returned to the sewer is consistently and significantly less than 92.5% of the volume of water supplied from the mains. I also consider that there is insufficient explanation/evidence to demonstrate that the options suggested by the company in order to measure the water not being returned to the sewer, are either impossible or practicable.
  
8. I acknowledge however that the company has stated that whilst reviewing service provided to the customer (up to February 2018) it has found instances where water supply charges have been waived by RST WATER or credits given (agreed in 2015 retrospectively) in respect of volumetric charges, during periods dating back to 2007, that up to now, it had not taken into account. It also confirms it failed to apply a 90% percentage figure agreed in respect of the NRTS allowance, effective from 4 February 2016, following receipt of the customer's NRTS Application made in 2016. Further, the company agrees that credits are due for instances where leak allowances were agreed by RST WATER and for the water used by the customer to fill the swimming pool (the company confirms as a gesture of goodwill, that the credits include an adjustment for subsequent years even though it billed up to 27 February 2018 only). The company confirms that such have resulted in credits totalling £2,286.48. I find that the company has provided a full explanation of the basis of its calculations in its letter to the customer dated 2 April 2019 and this has been reiterated in its Defence (a summary of which is set out above). It has also agreed to provide a further credit to the value of £700.00 in acknowledgment of its customer service failures (this amount is in addition to the £100.00 credit applied in June 2018 for "the previous levels of customer service").
  
9. I acknowledge that, in his Reply, the customer has expressed dissatisfaction with the 90% percentage figure agreed by the company (from 2016). He reiterates his request for a greater discount on the NRTS percentage and suggests a 50% reduction, going back to 2007. However, I accept that the onus is on the customer to prove that the amount of water not being returned to the company's assets is significantly and consistently less than 92.5%.

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Whilst I acknowledge that water used for the swimming pool and in caring for six to ten large dogs would reduce the extent of water returning to the sewer, I find there is insufficient evidence to demonstrate that 50% of the amount of water supplied does not return to the company's assets or any more than the 10% figure agreed by the company (as reflected by the 90% rate applied). I am mindful that by failing to make the adjustments worth £2,286.48, before now, including to reflect that a 90% percentage figure should have been applied in 2016, I am satisfied that this constitutes evidence of the company failing to provide its services to a reasonably expected standard. However, the company has agreed to provide compensation in the amount £700.00 (in the form of a credit applied to the customer's outstanding account balance). Based on the evidence supplied to me, on balance, I consider this figure to represent a fair amount, proportionate to the company's admitted customer service errors.

10. In summary, as the customer has not submitted evidence to show the exact percentage of water supplied that does not return to the sewer (either by the methods suggested by the company or otherwise), the company is not responsible to apply a greater discount than the 90% percentage figure it has already agreed, as set out above. The company admits to customer service failures when managing the customer's account (up to February 2018 when his account transferred to RST WATER and accordingly it has agreed to apply a credit to the value of £700.00. As I find that there is insufficient evidence showing that the company's customer service errors warrant a greater amount of compensation, on balance I accept this figure represents a fair amount in the circumstances. As a consequence, the customer's claim does not succeed.

#### **Outcome**

The company is not required to take any further action (other than that which it has already agreed to).

#### **What happens next?**

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- This adjudication decision is final and cannot be appealed or amended.
  - The customer must reply by 15 May 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.
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**A. Jennings-Mitchell**, Ba (Hons), DipLaw, PgDip (Legal Practice), MCI Arb

**Adjudicator**

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