

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1040

Date of Decision: 26 October 2018

Complaint

The customer claims that the contract was mis-sold. He chose to enter into the Agreement on the basis of a quotation and estimate for annual usage provided by the company. The company's first bill exceeded the quotation and estimate by 206%. Despite placing a hold on the customer's account the company has continued to send payment demands and threats of disconnection. The company also took a direct debit payment without prior notice. The company has failed to investigate this matter in a timely manner, it has not responded within the time limits given and it is in breach of its Service Level Agreements and it has failed to compensate the customer sufficiently under its Guaranteed Standards Scheme.

Defence

The company explains that there was a "system error", which resulted in an erroneous quotation and estimate contained within the customer's contract. The company highlights clause 3.1 of the contract that the customer will be charged under the rates set by the relevant undertaker. The contract is based on the discount and not the projected charges. The company maintains that the customer has been charged as per the market tariff. The company placed "holds" on the customer's account while the complaint was being investigated but due the time that had elapsed these kept expiring. The company acknowledges that it has provided unacceptable customer service.

Findings

The company has not provided its services to the standard to be reasonably expected. The company provided an incorrect quotation/estimate, which induced the customer into entering the contract. The customer was aware that the estimate/quotation was significantly less than he was currently paying and this is why his representative queried the charge. The customer has been charged in accordance with the rateable value and applicable discount. I find that the customer has been appropriately charged. The company has provided poor customer service throughout this period and has fallen short of its Service Level Agreements as contained within its contract.

Outcome

The company needs to pay compensation of £500.00 and permit the customer

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to cancel the contract penalty free, if he so elects.

The customer must reply by 23 November 2018 to accept or reject this decision.

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Party Details

Customer: []

Representative: []

Company: []

Case Outline

The customer's complaint is that:

- The representative obtained a quotation for water and wastewater from the company on 3 October 2017. The quotation was provided by the company's online portal, which specified a contract length of 36 months at a default cost of £932.34880, total cost of £905.72000 with a saving of 2.86%.
- The representative queried the quotation with the company, as it appeared to be lower than the customer's current charges. The company confirmed the quote was "indeed correct and includes the provision of fresh water and wastewater".
- The company provided a contract dated the 17 October 2017, with a start date of 16 November 2017. The contract provided an "Estimated current annual water consumption and charges" in line with the previous quotation: "Total water bill £317.00, Total wastewater bill £354.00, Total drainage bill £261.00 Total bill £932.00." Clause 3.1 contains the discount of "2.86%".
- Based on the low figures provided by the company the customer entered into the contract.
- On 30 November 2017, the customer received a bill dated 22 November 2017 for "significantly higher" charges than agreed. This was queried with the company and it placed the account on hold, it did not provide an explanation and stated it would send a letter on 4 January 2018, which the customer has still not received.

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- Despite placing the account on hold the customer continued to receive inconsistent bills and threats of disconnection. Furthermore, the company took a direct debit payment on 1 May 2018 for £2,196.31, without generating a bill providing prior explanation. The company only admitted this error on 5 July 2018. The customer subsequently reclaimed this via “direct debit indemnity”, as the company failed to respond to the on going complaint and billing query and had not provided a bill.
- The company has consistently ignored emails and exceeded its Service Level Agreements “SLAs”. Only twice has it provided recompense via its Guaranteed Standards Scheme “GSS”.
- The company’s representative referred the matter to “CC Water” and its investigations were further delayed by the company’s reluctance to provide a final response. The customer’s complaint was on-going for 201 working days prior to the submission of this application.
- The representative requests that the company cease threatening disconnection, which jeopardises the customer’s livelihood. It should acknowledge its errors and abide by the costs listed on its contract. The representative requests that the letter of 4 January 2018 be sent to the customer and that it provides the missing GSS payments for the further five occasions that it has exceeded its guaranteed response time.
- The customer seeks an apology for threatening his livelihood, and for not undertaking the actions they have promised. The customer also requests that the company apologise to his representative for consistently implying it was at fault for the situation, despite it doing everything possible to prevent this occurrence.
- The customer further requests that the bill be re-calculated based on the correct rates as stated within the estimate and quotation, which form part of the contract.

The company’s response is that:

- The representative believes that it has overcharged the customer from what is stated within his contract by 206% and have therefore mis-sold the contract. The representative disputes the contract despite its best efforts of explaining and highlighting certain points in the contract.
- The company explains that there was a “system error”, where the tariff code was not pulling through correctly in to the portal onto the contract. The contract is based on the discount not on the forecasted annual charges. The company acknowledges that there was a tariff code error, which was later resolved but the terms and conditions are clear as to how the customer will be charged.
- Under clause 3 it clearly states that the contract and charges are based on the “undertaker’s charges less a discount of 2.86%”. The prices listed in the complaint are clearly stated as

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“Estimated current annual water consumption charges”. “Estimated” and “current” are not “actual” or “contracted”. The company explains that the estimate provides the customer with the opportunity to see what estimate market rates it has used to calculate the discount “their pre-contract charges”, allowing the customer the opportunity to “flag any errors prior to signing”.

- The customer is “no worse off” than what he was paying prior to signing the contract and he is saving in comparison to his historic charges.
- The company has ensured that issues raised with the contract “including the missing page for sewerage” in relation to the first bill have been resolved in full and the agreed discount at point of sale has been applied.
- The company has also conducted a full review of the account and history and applied further GSS payments to the account totalling £140.00.
- The company would like to apologise to the customer for the issue being on-going for an “unacceptable amount of time”. The company acknowledges that this is not an acceptable level of customer service and for this, it is “sorry”. The customer was caught up in a “system issue” it was experiencing at the time, something which has since been fully resolved.
- The customer’s account was on hold, which is why he did not receive a generated bill prior to the direct debit in May 2018. The customer subsequently requested a direct debit indemnity.
- The customer continued to receive payment demands and disconnection notices, as the “holds” on his account expired due to the length of time the complaint was on going. The company apologises for any undue stress caused as a result of such communications.

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?

Contract

1. This complaint stems from disputed contract terms, namely that the company has mis-sold the contract and it has not charged in accordance with the quotation and estimate provided within the contract.
2. The representative has provided a screenshot of the “Water Quote”, which shows a default cost of £932.34880, saving from default 2.86% and a total cost of £905.72000. It is apparent from the submissions that the representative immediately emailed the company and requested confirmation, as the quotation was lower than expected. The company responded and confirmed that the quote was correct and that it included water and wastewater.
3. Following confirmation the representative passed the quotation onto the customer who decided to proceed with the contract. Both parties have submitted a copy of the contract. The contract details that it includes sections one through to six. Section two provides an “overview”: “Estimated current annual water consumption and charges: Total water bill £317.00, Total wastewater bill £354.00, Total drainage bill £261.00, Total bill £932.00. The preceding figures correspond with the quotation previously provided.
4. Quotations are generally held to be fixed and estimates are to be regarded as flexible.
5. The company has highlighted that it experienced a “system error” where the tariff code was not pulling through to the portal or contract. The company maintains in any event, that the contract is based on the discount and not the “forecasted” annual charges.
6. The company had the opportunity to review the quotation, when the representative requested confirmation of the figures. The company confirmed that it had checked the quotation and that the figures were “indeed correct” and included “water and wastewater”.

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7. The company provided a contract for the services, using the quotation figures as an estimate for annual usage. Therefore the customer was under the reasonable belief that the quotation and estimate provided would resemble the bills he would receive for services on the account.
8. Over the months, which have followed the company has provided its explanation for why the bills do not reflect the quotation and estimate provided. It has stated that there was a “system error” where the online portal did not include “water charges”, despite the water charges being listed on both the quote and estimate contained within the contract.
9. It has explained that the portal is used to calculate the discount. But it is clear that the representative queried the figures not the discount and the company confirmed that this was correct.
10. The company has also highlighted clause three of the Agreement, which contains special terms and conditions: *“3.1 – The customer will be charged for the retail water and wastewater services at the rates set by the relevant undertaker for each property defined in section 6 (site schedule), less of a discount of 2.86%.”*
11. It would be fair for the customer and his representative to assume that the rates set by the undertaker would at least resemble the quotation and estimate provided, as this is what has induced the customer to enter the contract. As specified by both parties the customer’s bill is 206% in excess of the quoted/estimated amount.
12. However, it is also clear from the parties’ submissions that the company experienced a systems error and then failed to correct the erroneous quotation/estimate. The customer’s agent was aware that the quotation/estimate was significantly less than his current supplier, which was why the amount was queried. Notwithstanding this, the customer has been billed based upon the rateable value of the property, which is fixed with the appropriate discount applied. I therefore find that the customer has been correctly billed. I do not find that the customer has suffered a financial detriment as a result of this, as even based on the correct billing the customer is paying less than his previous charges. I therefore find that the customer is responsible for the charges as billed. In recognition of the company’s error I find it reasonable and proportionate to direct the company to pay compensation of £500.00, as it has failed to reach the standard to be reasonably expected. I also find it appropriate to allow the customer to terminate the contract without penalty if he so elects.

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Customer service

13. The customer and representative have highlighted shortfalls in the company's customer service throughout this contract. That it has failed to provide responses as agreed or in line with its 10 working day time limits, specified within its contract under clause five. Even after CCWater became involved the company avoided issuing its final decision, which drew this matter out for 201 working days. The company has also failed to provide a copy of the correspondence dated 4 January 2018 and it did not send alternative options promised. I note that a copy of this correspondence has been included within the parties' submissions.
14. The company has acknowledged its "unacceptable level of customer service" and the "unacceptable time" it has taken. The protracted correspondence demonstrates that the company did not respond within the time limits given and it did not escalate the complaint within a timely manner.
15. The representative has highlighted that the company has only provided two GSS payments under clause six of the contract and he should be entitled to seven. The company has agreed that this is the case and has provided credits totaling £140.00. I find that this reflects the breaches in its Guaranteed Standards Scheme.
16. The representative has also stated that the company has repeatedly sent threatening correspondence regarding disconnection of services and payment demands, despite promises that a hold would be placed on the account. Furthermore, and without notice the company deducted the sum £2,196.31 from the customer's account using the direct debit mandate. The company has explained that due to the duration of the complaint; "holds" kept expiring and the customer did not receive a bill as an "N-Stop" had been placed on the account. I note that the customer reclaimed the aforementioned sum via indemnity, when an explanation and bill was not provided. The company has not reached the standards to be reasonably expected and has provided a poor level of customer service in this case.
17. The company has apologised to the customer for the undue stress caused by the disconnection and bill demands also the length of time the complaint has been on going. I note that the application also includes a request for the company to apologise to the representative. The representative is representing the customer in this case and I am unable to direct the company to apologise to a third party.

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Outcome

The company needs to take the following further action: Pay compensation of £500.00 and permit the customer to cancel the contract penalty free, if he so elects.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 23 November 2018 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

D. M. Curnow

D.M. Curnow BA (Hons), LLM, LPC, Solicitor (non-practising).

Adjudicator

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