

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1048

Date of Decision: 1 November 2018

Complaint

The customer was moved over to the Assessed Household Charge ("AHC") tariff with effect from March 2018. His new charge was about half of the amount that he had been paying during the previous three years, i.e. between 2015 and 2017. The discrepancy shows that he was systematically overpaying these historic charges. He seeks a 50% refund of the charges that he paid for the three year period between 2015 and 2017. This equates to £1,145.97 and he claims interest in addition.

Defence

The AHC tariff is only applicable after a property has been surveyed and has been found to be unsuitable for a water meter. In this case, the survey at which the property was deemed unmeterable only took place in 2018. There is no basis, therefore, for backdating the AHC to apply to the customer's charges paid between 2015 and 2017. The charges over that period were calculated correctly and no refund is due.

No offer of settlement has been made.

Findings

The company is only obliged to offer the AHC tariff after a survey has been carried out and once it is confirmed that a meter cannot be fitted at the subject property. 2018 was the earliest point at which such a confirmation could have been reached in this case. There is no reasonable basis for requiring the company to backdate the AHC tariff so as to apply to the customer's charges between 2015 and 2017. The company's historic charges to the customer were calculated correctly and no refund is due. The approach taken by the company in this case (in all of the above respects) is consistent with normal practices within the water industry.

Outcome

The company does not need to take any further action.

The customer must reply by 29 November 2018 to accept or reject this decision.

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systematically been overpaying.

- On this basis, he seeks a 50% refund of the sums that he paid over the Relevant Three Year Period. This equates to £1,145.97 and he claims interest in addition.

The company's response is that:

- The Assessed Household Charge ("AHC") is only applicable after a property has been surveyed and has been found to be unsuitable for a water meter. If a meter can be fitted, the AHC tariff is not available to customers.
- In this case, the survey of the Flat at the customer's request, after which the Flat was deemed unmeterable, only took place in 2018. Whilst the company accepts that it received an application for a water meter from the customer at the end of October 2011, its records show that this request was closed (after it was unable to make contact with the customer to set up a survey appointment).
- The purpose of the AHC is to make sure that customers are not unreasonably disadvantaged because they cannot have a meter.
- The OFWAT charging rules specify that companies are only required to offer the AHC tariff when a measured charges notice has been given (i.e. the customer has asked for a meter or been included as part of the Progressive/Smart Metering programme) but that this notice cannot be fulfilled.
- Prior to the survey in 2018 to confirm that a meter could not be fitted at the Flat, the customer had been charged correctly on the basis of the property's Notional Value ("NV"). The customer had merged flats 1 and 2, making the Flat a four-bedroomed property. Any previous Rateable Value ("RV") would not have remained valid after the property was structurally altered in this way. The alternative would have been to amalgamate the two RVs, which would have increased the customer's charges significantly.
- The AHC cannot be backdated to apply to the Relevant Three Year Period.
- Therefore, the charges paid historically by the customer over the Relevant Three Year Period were correctly calculated and no refund is due.

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.

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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 have carefully reviewed:
 - a. the detailed 'chain of events', which is set out by the company on pages 1 to 3 of its defence; and
 - b. all of the documents:
 - i. as submitted by the customer alongside his WATRS application form; and
 - ii. as annexed to the company's defence.
2. The customer's claim is focused on whether it can be right that he should only have the benefit of being charged on the AHC basis from 2018 onwards. I note the way that he puts this point in his application form: "... I do not understand why [during the Relevant Three Year Period] I had to pay TWICE as much as today for the SAME water consumption for the SAME flat ..."
3. I have considered whether the company might reasonably have established any earlier (i.e. before 2018) that the customer ought to be moved across to the AHC basis of charging. The customer states that an inspection took place in 2011 but, unfortunately, he does not have any documentary evidence of the company actually declaring the Flat unmeterable at that time. On this issue, I have read through the company's 'Evidence' items 1, 2, 3 and 4, which are annexed to the defence. I am satisfied that these contact notes do support the company's submissions about the customer's 2011 meter request being closed off.

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4. On the basis of the records presented and on the balance of probability, therefore:
 - a. I am unable to conclude that the 2011 Inspection took place, in fact; and
 - b. consequently, I find that – prior to March 2018 – no reasonable opportunity was presented to the company to see the customer transferred over to the AHC tariff.

I appreciate that the customer is unlikely to agree with my finding on the first point but I can only make findings on the evidence and in this case, there is no documentary evidence to support directly the customer's recollection of events. For its part, however, the company has provided its call notes, which I found persuasive.

5. The company has relied on the OFWAT charging rules. OFWAT is the regulator of the water and sewerage industry and of the company. In accordance with the OFWAT charging rules, I find that:
 - a. it is correct that the company is only obliged to offer the AHC tariff after a survey has been carried out and once it has been confirmed that a meter cannot be fitted at the subject property ("the Confirmation") ; and
 - b. in the present case – and in relation to the Flat - 2018 was the earliest point at which the Confirmation could reasonably have been reached; and
 - c. in these circumstances, there is no reasonable basis for requiring the company to backdate the AHC tariff so as to apply to the customer's charges over the Relevant Three Year Period; and
 - d. the company's charges to the customer over the Relevant Three Year Period have been calculated correctly and no refund is due; and
 - e. the approach taken by the company in this case (in all of the above respects) is consistent with normal practices within the water industry.
6. In light of my findings above, I am satisfied that the company has provided its services to the customer in this case to the standard that one would reasonably expect.

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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 29 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.



Nik Carle, LLB (Hons), Solicitor, DipArb, FCIArb

Adjudicator

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