

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1083

Date of Decision: 16 January 2019

Complaint

The customer states that the company has repeatedly billed her incorrectly and has provided poor customer service in response to her attempts to have her bill corrected. She requests that the £150.00 debt recovery charge be removed, that she be paid compensation for her experiences with the company, and that she receive a correct bill from the company.

Defence

The company states that the customer is now being billed correctly. It acknowledges that there have been customer service failings, but states that the customer has already received compensation of £60.00 for these failings. No further offer of settlement has been made.

Findings

The customer has not established that the company is currently billing her incorrectly. The customer has established that the company failed to provide its services to her to the standard to be reasonably expected by the average person with respect to its investigation of her complaint regarding her bill and with respect to its collection actions.

Outcome

The company needs to take the following further action: It must pay the customer a total amount of £245.00.

The customer must reply by 13 February 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1083

Date of Decision: 16 January 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- She was charged incorrectly for surface water and highways drainage (SWHD).
- She was subsequently reduced from Band 2 SWHD to Band 1, backdated to 16 September 2016, the date her account was opened.
- While CCWater was investigating the customer's complaint, the company passed her account to a debt collection agency, and on 19 September 2018 it applied debt recovery charges of £150.00 to her account.
- These charges have been challenged by CCWater, but the company has refused to remove them.
- She continues to challenge the accuracy of the company's billing.
- She complains that it took over one year for the company to confirm the correctness of her charges.
- She initially wanted to set up a payment plan, but the company began collection proceedings while investigating her complaint.
- There have been repeated communication problems with the company.
- The customer requests that the £150.00 debt recovery charge be removed, that she be paid compensation for her experiences with the company, and that she receive a correct bill from the company.

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The company's response is that:

- The customer initially made contact on 30 June 2017, challenging the inclusion of SWHD on her account.
- At this time an application form was sent to the customer to apply for a reduction in SWHD.
- The completed form was received on 13 December 2017 and was submitted to review by the wholesaler on 15 March 2018, the delay being attributable to errors by the company.
- The wholesaler visited the property on 28 March 2018 and confirmed that SWHD was payable, but also noted that the property had been improperly plotted.
- An email was sent to the customer on 10 May 2018 communicating the wholesaler's findings, and noting that a balance was due on the account and payments should be made towards this balance.
- The customer contacted the company on 11 May 2018 and stated that she would be contacting CCWater about the account. She requested that a hold be placed on the account.
- On 29 May 2018, the wholesaler confirmed that the customer's property was being moved from Band 2 to Band 1.
- On 29 June 2018, a full rebill of the account was performed, with the reduction in banding backdated to 16 September 2016, when the customer's account was opened.
- On 2 July 2018, an email was sent to the customer notifying her of the change to her bill, and that the balance of £389.45 was now correct, due and payable.
- On 6 July 2018, the customer contacted the company and stated that she would be asking CCWater to confirm the correctness of what the company had done.
- At this time, the company informed the customer that a hold would be placed on the account until 20 July 2018.
- On 4 September 2018, the company received communication from CCWater about the customer's account.
- A response was sent to CCWater on 20 September 2018.
- The customer has been paid a goodwill gesture of £60.00, consisting of £20.00 for the delay in sending the information to the wholesaler; 20.00 for the length of time it has taken to resolve the customer's dispute; and £20.00 for the account being sent to a debt collector during the internal complaints process.
- The customer has yet to make any payments to the outstanding balance.

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

- She has still not been sent a correct bill that adequately itemises the charges imposed by the company.

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. While the customer continues to question the correctness of the company's billing, I find no reasonable justification for concluding that the current bill produced by the company is incorrect.
2. An inspection has been undertaken of the customer's property, and it has been confirmed that the customer is liable for SWHD charges.
3. The customer's property has been reduced from Band 2 SWHD to Band 1, the lowest banding, and so there is no basis on which to believe that the customer is in an incorrect band. If this were the case, then it would result in the customer being liable for higher charges, rather than receiving a further reduction in her bill.

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4. The reduction in banding has also been properly backdated to the beginning of the customer's account.
5. The company has also confirmed that the customer's property is billed on the basis of a meter, and has produced to CCWater a copy of the readings from that meter.
6. As a result, I find on the basis of the evidence available to me that the customer is currently being billed correctly, and so is liable for the bill currently presented to her by the company.
7. The customer also challenges the inclusion in that bill of a £150.00 debt recovery charge, imposed by the company in September 2018, after the time that the customer had taken her complaint to CCWater. As the charge was imposed on 19 September 2018, it was also imposed after the company was contacted by CCWater on 4 September 2018, and before it responded to CCWater on 20 September 2018.
8. The company argues that it is not obligated to place an account on hold while a customer has a complaint at CCWater, and that it had informed the customer that the hold on her account would expire on 20 July 2018.
9. While CCWater challenges the company's view on this point, I find that the company is correct in so far as the amount being collected is not itself subject to a specific challenge to CCWater.
10. That is, an average person would reasonably expect that when CCWater has been asked to investigate a disputed charge, the company would place a hold on collection efforts relating to that amount. Any other approach would result in customers being forced to pay amounts that are subsequently determined not to have been owed, only to be reimbursed later, and also potentially paying collection fees incurred for collection actions on amounts incorrectly billed by the company.
11. However, in the present case, while the customer had raised a complaint about the accuracy of her bill, it was not open to dispute that some amount was owing to the company. As a result, the customer was obligated to make some payments to the company even though other amounts were being disputed at CCWater. Any other approach would allow customers to avoid payment of legitimately owed amounts merely by bringing a complaint to CCWater, no matter the content of that complaint.

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12. If the company had asked the customer to immediately pay in full the bill it had presented to her then this would constitute an attempt by the company to collect amounts that were the subject of a dispute at CCWater. However, the email sent by the company on 2 July 2018 clearly states that the customer could arrange a payment plan that would spread payments across the course of the year. This would have enabled the customer to make payments to the company to cover amounts that were not in dispute, while nonetheless pursuing her complaint at CCWater.
13. The customer, however, did not take up the company's offer, and failed to make any payments at all, even of amounts that were not in dispute.
14. Consequently, I find that the company did not fail to provide its services to the standard to be reasonably expected by the average person when it commenced collection action in September 2018, and as a result a charge can be legitimately added to the customer's account arising from this collection action.
15. However, I note that the company has added the £150.00 charge to the customer's bill as a "Water Charge", which has resulted in the customer also being charged VAT as though this charge was for the supply of water. While the company may legitimately impose the collection charge on the customer, application of a VAT charge is inappropriate.
16. Consequently, the company must reimburse the customer £30.00 as an incorrectly applied VAT charge.
17. Moreover, the company has not established the basis on which the £150.00 charge was calculated. Under the company's Scheme of Charges, it is permitted to charge the customer a "reasonable administration charge" or actual costs incurred in recovering outstanding charges.
18. In its communications with WATRS, the company has stated that "If no payment is received, the customer will continue to receive debt collection notices, and will continue to receive additional charges for the account being sent to our Debt Collection Agency", which makes clear that the £150.00 charge imposed was for the single collection contact made in September 2018, as further charges are envisioned if further collections actions are undertaken.

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19. The company's Scheme of Charges only permits it to impose "reasonable" actually incurred charges, and I note that for a bill of under £1,500.00 a bailiff is permitted to charge a fee of £75.00 for a collection letter. The company has not established that its collection actions taken in September 2018 were any more burdensome than those just described, and so I find that it has not established that the £150.00 charge constituted a "reasonable" charge as permitted under its Scheme of Charges.
20. Therefore, I find that fair and appropriate compensation for the company's failure to provide its services to the customer to the standard to be reasonably expected by the average person with respect to its collection actions would consist of £75.00, effectively reducing the collection charge to £75.00, as a charge of £75.00 has been recognised by the courts as a reasonable expense for a similar collection action.
21. Consequently, the company must pay the customer compensation of £75.00 for failing to provide its services to the customer to the standard to be reasonably expected by the average person.
22. The customer also requests compensation for her experiences with the company.
23. The company has emphasised that it has already paid compensation to the customer of £60.00 for customer services failures.
24. I note, however, that there were significant customer service failures relating to the customer, including the customer being contacted by a collection agency in January 2018 even though the customer had been told in December 2018 that her account was on hold until her challenge to her bill was resolved.
25. Use of a collection agency is a serious action that can be expected to cause significant distress to any customer, and I find that in allowing the above collection attempt, the company failed to provide its services to the standard to be reasonably expected by the average person.
26. The company has also acknowledged that although it received the customer's application form requesting an SWHD reduction on 13 December 2017, through its own errors the wholesaler was not informed of this request until 15 March 2018. This includes the time at which a collection agency employed by the company attempted to collect payment from the customer.

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27. I find that this delay also constituted a failure by the company to provide its services to the standard to be reasonably expected by the average person.
28. The customer also argues that the company lost her application for an SWHD reduction, and I find that the evidence of communications between the parties supports a conclusion that the customer did complete and send an application in June 2017. As a result, I find that it is more likely than not that the form was indeed received by the company, as mail is usually delivered, and therefore the company's failure to respond to that form constitutes a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person.
29. As is clear from the above, the customer has experienced repeated customer services failures from the company, and I find that the customer is entitled to an award of compensation for those experiences. In consultation with the WATRS Guide to Compensation for Inconvenience and Distress, and acknowledging that particular distress will have been caused to the customer by being incorrectly subjected to collection actions, I find that an award of £200.00 would be fair and appropriate, to be reduced by the £60.00 that has already been paid to the customer by the company.
30. Consequently, the company must pay the customer compensation of £140.00 for failing to provide its services to the customer to the standard to be reasonably expected by the average person.
31. The customer also objects that the company has still not sent a bill that properly itemises its charges.
32. However, in her original application the customer has produced copies of bills that properly supply the information that the customer requires in order to understand how she is being billed.
33. Consequently, this element of the customer's claim does not succeed.
34. For the reasons given above, the company must pay the customer a total amount of £245.00.

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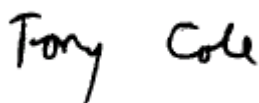
Outcome

The company needs to take the following further action:

It must pay the customer a total amount of £245.00.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 13 February 2019 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 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.



Tony Cole, FCI Arb

Adjudicator

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