

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1084

Date of Decision: 12 December 2018

Complaint

The customer claims that she received a very high bill at the end of November 2017 due to billing errors by the company/RST Water. The customer disputes liability for the outstanding account balance as the error was not of her making and she is unable to pay. The customer also asserts that her account with the company incorrectly reflects that the property is used for commercial purposes whilst in fact it has not been used as a guesthouse since 2015 and she has informed the company of the same. The customer requests that the company waive the water charges due to its error, that it pay her compensation (amount unspecified) and that her account is de-registered from the open water market as the property is used as a domestic premises only.

Defence

The company admits that due to a frequency error with its billing system, the customer had only been charged for surface water drainage and not water consumption or waste water services. It issued a bill consisting of retrospective charges for £2965.87. It apologises for the financial impact this has had on the customer; however, it is entitled to back date charges for its services provided and therefore it does not accept to waive the charges. In relation to the registered use of the property, it has advised the customer that it cannot transfer the customer's account from commercial to domestic as the property is still showing as a guest house on the Valuation Office website, and listed as a mixed use property on the council tax website. It has applied credits of £150.00 for service and billing issues, failed callbacks, mis-advice provided and for the stress and inconvenience caused and it feels that this amount is adequate compensation. It has not offered any settlement amount.

Findings

The company admits that it issued an invoice to the customer in November 2017 that included retrospective charges due to an error with its billing system. The company failed to issue correct invoices to the customer during the prior eight months (since it became responsible for the customer's billing following the opening up of the water market in April 2017). I am satisfied that this is evidence of the company failing to provide its services to a reasonably expected standard. However, as the company is legally entitled to apply charges for its services retrospectively, it is not liable to waive the charges as

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there is a lack of evidence that the charges are incorrect. Due to proven billing and service errors, I find that the company shall apply further compensation amounts totalling £250.00 for such errors and the stress and inconvenience caused. The customer has shown that the property is no longer being used as a guesthouse for commercial purposes and advised that she is in the process of de-registering the property as a guesthouse with the Valuation Office/council tax websites. However, as the onus is on the customer to ensure the Valuation Office/council tax websites are updated so that they accurately reflect the use of her property, I do not find that the company's failure to transfer her water account to domestic whilst completion of the update is still pending, is evidence of it failing to provide its services to a reasonably expected standard.

Outcome

The company shall pay the customer compensation of £250.00.

The customer must reply by 14 January 2019 to accept or reject this decision.

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Date of Decision: 12 December 2018

Party Details

Customer: []

Nominated Representative: []

Company: []

Case Outline

The customer's complaint is that:

- She moved into [] ('the Property') on 29 January 2016. The Property is domestic and she has never used the property as a guest house or for commercial purposes since she moved in. She informed RST Water of this.
- She was up to date with her payments to the company and her account was in credit until November 2017 when she received two invoices, one for £2854.56 and one for £2965.87. She immediately rang the company's billing department and it admitted its billing system had made a mistake as it had only been billing the customer up to that point for surface water drainage and not for her actual water consumption. It advised that £2965.87 was due.
- She disputed the high bill as this was due to the company's error: she is a vulnerable pensioner and has no savings and family members living in the Property receive state benefits.
- She is unhappy with the company's response and investigations.
- She is unable to pay the high outstanding amount on the account (currently £5,601.19) and asserts that she has been placed in financial hardship by the company and RST Water.
- She requests compensation (amount not specified) and for the outstanding balance of charges to be waived as the error was not of her making and due to this she feels that she should not have to pay.
- She requests that her account is de-registered from the open water market as use of the property is domestic and therefore she wants her account reverted to RST Water (she is in the process of getting the Property updated with the Valuation Office).

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The company's response is that:

- In summary of the ongoing issue, the customer called on 4 January 2017 and advised that she had not received a bill since July 2016. She was concerned that she would now receive a high invoice, it advised to call back once she was in receipt of the invoice to discuss setting up a payment arrangement.
- Invoices were produced for both September 2016 and December 2016, but due to system errors these were both reversed on its system. The amended invoice to cover this period was produced and issued to the customer on 4 January 2017 for £155.96.
- However, a system issue between January 2016 and June 2016 meant that the customer was only being billed for Surface Water and Highway Drainage. This was caused by an error with the billing frequencies. The water and wastewater connections were not in line with the surface water and highway drainage connection.
- During this period, it continued to send out regular invoices, although it understands that these invoices were incorrect. It always advises customers to continue to make regular payments whilst any investigation is carried out.
- The customer's account is currently £5480.19 in debit. It has investigated the invoicing on the customer's account and confirms that the above amount is correct, and the balance is due and payable.
- The following credits have been applied and deducted from the customer's balance. At stage 1: £25.00 for failing to produce an invoice; £25.00 for level of service received; and, a £20.00 guaranteed service standard payment. At pre-investigation: £20.00 for billing issues; £20.00 for failed callbacks; £20.00 for mis-advise provided; and, £20.00 for stress and inconvenience.
- It appreciates that the customer's outstanding balance has been accrued by a billing error. It apologises for this; however, its Scheme of Charges confirms that it can make retrospective adjustments to a customer's invoices.
- The customer is requesting that her account is transferred from a commercial account to a domestic account. The company asserts that it is unable to carry out this request as the Property is still showing as a guesthouse on the Valuation Office website, and listed as a mixed use property on the council tax website.
- The compensation it has applied is fair and in line with its current processes.

Reply

- The customer reiterates that the Property has not been run as a guesthouse since she purchased it and that it ceased trading as guesthouse in 2015. Further, the customer asserts

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that she recently received a credit note from the company telling her she her account was £500.00 in credit.

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. The dispute concerns charges applied by the company retrospectively on 29 November 2017 for water consumption and waste water services dating back to when the customer first moved into the property in January 2016. The customer has also raised a complaint about her water account with the company being non-household.
2. I am mindful that on 1 April 2017, the water market was opened up due to Government changes that meant services provided to non-household customers or those with a 'commercial' account, were split between the retailer and wholesaler. As the customer currently has a commercial account and is deemed a 'business customer', the company is the retailer and RST Water (RST) is the wholesaler (and water supplier) for the region in which the Property is located. I find that the company and RST are therefore two distinct and separate entities. I remind the parties that a WATRS application can only brought against one party. As the customer has a commercial water account, her case has been defended by the company, the retailer, and therefore, for the

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purposes of this decision, my remit is to determine the issues between the customer and the company. I am unable to consider any claims or complaints in relation to RST or other third parties.

3. The customer has submitted copies of bills received from the company and RST and of her correspondence exchanged with the company during the dispute period, in support of her case. The company has supplied a 'Timeline' of events relating to the customer's case dating back to 4 January 2017. I also acknowledge receipt of CCW documents.
4. I accept from the billing evidence supplied by the customer that, up to November 2017 she had been paying the bills issued by the company (and by RST prior to April 2017) on time and further, that her bills always showed her water account to be in credit. The customer contacted the company on 1 December 2017 to query bills she had received for in the region of £3000.00 and it confirmed that the high amount was due an error with its billing system (frequency issues), which meant she had only been charged for surface water drainage and not water consumption or waste water services up to then. The company advised that the charges of £2965.87, were correct and due and that they covered the 16 months from January 2016 to June 2016.
5. The customer disputes that she should be liable for the charges as these accrued due to an error on the company's/RST part and not due to anything she did or did not do. The company has highlighted its Scheme of Charges, which I find states that it is permitted to make retrospective adjustments to invoices including where there has been an error. I find that the company's Scheme of Charges is in line with the law which allows water companies to ask customers to pay for up to six years of unpaid water and sewerage charges. Whilst I appreciate the customer's shock at receiving such a high bill, as legally, I am satisfied that the company are permitted to back date charges, consequently, I find that its actions in this regard do not constitute evidence of it failing to provide its services to a reasonably expected standard. I am also satisfied that since this time, the company has offered to set up a payment plan for the customer to pay off the arrears in instalments.
6. However, having reviewed the Timeline submitted by the company, it is clear that the customer contacted RST (the customer's retailer at this time) on 4 January 2017 to query why she had not received a bill since July 2016. I can see that she also expressed concern at this time about receiving a high bill due to having received no bills over the past six months. She called the

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company again on 18 January 2017 regarding the same issue. Although the company looked into why the customer had not received a bill and subsequently issued a bill for £155.96, this bill was incorrect and it was not spotted that the customer was not being billed for water consumption or waste water services, despite identifying that there was a technical issue on its system which related to frequency. I am mindful that “an error with billing frequencies” is the reason stated by the company for its failure to bill the customer for water consumption or waste water service for the disputed period between January 2016 and June 2017. The issue, however, was not identified by the company until 29 November 2018; some ten months after the customer first complained about billing. I consider that this shows that opportunities were missed to resolve the issue much sooner than it was. I find that whilst the company is not liable for the errors made prior to April 2017 as this was before it became the customer’s retailer, it is responsible for the incorrect billing between April 2017 and November 2017 and failure to identify and rectify the fault with the billing system during this timeframe. I am satisfied this constitutes evidence of the company failing to provide its services to a reasonably expected standard.

7. The customer asserts that the company has been billing her for its services on a commercial account when she has confirmed that since she moved into the Property it has been used as a domestic premises and never for commercial purposes (it was used as a guesthouse by the previous owner). The company’s response is that the Property is still showing as a guesthouse on the Valuation Office website and ‘mixed use’ on council tax website, and therefore it cannot change the customer’s account to a domestic until she changes this. Neither party have made any representations as to whether, as a “commercial” Property, the level of charges applied by the company has been higher than if it was domestic. The company has supplied evidence to show that the Property is still showing as a guesthouse on the Valuation Office website and ‘mixed use’ on council tax website although it has not provided evidence of its policy regarding transferring a commercial account to a domestic one. I can see that the customer informed the company after moving into the Property that it was being use domestically and not as a guesthouse and I note that in response the company told the customer to update the listings to enable it to move her account across to domestic. The customer has confirmed that she is in the process of getting the Property de-registered as a guesthouse with these bodies. I also acknowledge evidence supplied with the customer’s Reply of an online listing that states the ‘Green Guest House’ at the Property address is “permanently closed” and a letter dated 3 December 2015 from ‘Kays Commercial and Industrial Surveyors’ that states the intended use of the property is residential. Therefore, on balance, I accept the accuracy of the customer’s

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assertion that the Property is used for domestic purposes only. However, as the onus is on the customer to ensure the Valuation Office/council tax websites are updated so that they accurately reflect the use of her property, I do not find that the company's failure to transfer her water account to domestic whilst completion of the update with these agencies is still pending, is evidence of it failing to provide its services to a reasonably expected standard.

8. The company has detailed credits it has made to the customer's account, totalling £130.00, as set out above in relation to billing and service issues, failed call backs and mis-advice provided to the customer during the complaints process, and £20.00 for stress and inconvenience. However, in light of the company's failure to supply correct invoices during the eight months from when it took over responsibility for the customer's account in April 2017 until when it issued the customer with a corrected bill on 28 November 2018 consisting of all the backdated charges, I find that the credits applied of £45.00 for failing to produce a correct invoice and billing issues are insufficient. I find that in the circumstances the company shall pay the customer a further amount of £100.00 for its part in the billing issues encountered by the customer. In addition, I find it fair and reasonable for the company to pay the customer additional compensation of £150.00 for the stress and inconvenience caused by its errors, namely incorrect bills and a delay in addressing the issue. The company may apply these amounts as credits against the customer's outstanding account balance.

Outcome

1. The company shall pay the customer compensation of £250.00.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 14 January 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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