

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1095

Date of Decision: 25 January 2019

Complaint

The customer's complaint is the company took an excessive amount of time to repair various leaks within its assets that had resulted in flood damage to the garden of her property. The excessive time for repairs and the delay in repairing her garden resulted in the customer incurring additional costs, stress and inconvenience. Once her complaint had been raised, the company provided poor customer service and as she is female she was treated differently and discriminated against by the company during the repair works. The customer is seeking for the company to provide an apology, reinstate her garden and pay compensation of £1,106.39. The compensation comprises of; £553.00 for the stress, inconvenience and discrimination during the delays in repairing the property; £413.40 for two days lost work because she felt she had to be at home during the repairs; the additional costs incurred for the gardener of £100.00; and the additional costs of £39.99 for the pump to remove the excess water.

Defence

The company submits that once they were notified and the initial leak identified, the delay in repairing the company's assets was due to the need to acquire council permission to commence works on the public highway and to arrange the necessary traffic management. The company rejects the customer's assertion that she was discriminated against due to the fact she is female or for any other reason, she was treated the same as any other customer of the company. The company had not been made aware of any further issues with the clean-up of the customer's garden until the WATRS application and the company's insurers have contacted the customer to resolve any outstanding issues in this respect. The company has already paid the customer £39.99 for the cost of the water pump. The customer has already been offered £250.00 with regard

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watrs.org

to stress and inconvenience incurred, which the customer has declined. The company has provided a good level of service at all times throughout its dialogue with the customer and therefore the company is not liable for any damages in this respect. The company has not made any further offers of settlement.

Findings

I am satisfied the company did not fail to provide its services to the customer to the standard to be reasonably expected with regard to the time to repair its assets and the resulting flood damage to her property. Furthermore, I am satisfied the works were done by the company as quickly as it could, considering the circumstances. However, I find the company did fail to provide its services to the customer to the standard to be reasonably expected with regard to the reinstatement of the customer's garden, customer service and inconvenience and stress caused. Therefore, I direct the company to pay £325.00 to the customer and for the company to rectify the damage within the customer's garden as highlighted in the "ABC" report dated 28 July 2018.

Outcome

The company needs to take the following further action:

The company shall pay the sum of £325.00 to the customer and rectify the damage within the customer's garden as highlighted in the "ABC" report dated 28 July 2018.

- The customer must reply by 22 February 2019 to accept or reject this decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1095

Date of Decision: 25 January 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company took an excessive amount of time to repair various leaks within its assets that had resulted in flood damage to the garden of her property.
- The excessive time for repairs and the delay in repairing her garden resulted in the customer incurring additional costs, stress and inconvenience.
- Once her complaint had been raised, the company provided poor customer service and as she is female she was treated differently and discriminated against by the company during the repair works.
- The customer is seeking for the company to provide an apology, reinstate her garden and pay compensation of £1,106.39. The compensation comprises of; £553.00 for the stress, inconvenience and discrimination during the delays in repairing the property; £413.40 for two days lost work because she felt she had to be at home during the repairs; the additional costs incurred for the gardener of £100.00; and the additional costs of £39.99 for the pump to remove the excess water.

The company's response is that:

- The company states the leak was not reported to the company until approximately 21 days after the customer first experienced any flooding.
- Once the company was notified and the initial leak identified, the delay in repairing the company's assets was due to the need to acquire council permission to commence works on the public highway and to arrange the necessary traffic management.
- The company rejects the customer's assertion that she was discriminated against due to the fact she is female or for any other reason, she was treated the same as any other customer of the company.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watrs.org

- The company employed a third-party contractor 'ABC', who attended the customer's property once the works were complete to assess the damage and begin the clean-up process of the customer's garden. The company had not been made aware of any further issues with the clean-up of the customer's garden until the WATRS application and the company's insurers have contacted the customer to resolve any outstanding issues in this respect.
- The company has already paid the customer £39.99 for the cost of the water pump and no further damages are liable in this respect.
- The customer has already been offered £250.00 with regard to stress and inconvenience incurred, which the customer has declined.
- The company has provided a good level of service at all times throughout its dialogue with the customer and therefore the company is not liable for any damages in this respect.

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 centres on whether the customer is entitled to compensation of £1,106.39 for the amount of time the company took to repair its leaking assets and the resulting flood damage to her property. The company is required to meet the standards set out in the Water Industry Act 1991 and the Water Supply and Sewerage Services (Customer Service Standards) Regulations

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watrs.org

2008. The combined effect of these is to place an obligation on a water and sewerage company that when there is a report of a leak, the company needs to investigate fully if the company's assets are to blame and, if repairs are needed, make such repairs to prevent further leaks.

2. Furthermore, the company also has certain obligations in respect of its customer services as set out in OFWAT Guaranteed Standards Scheme and the company's own Customer Guarantee Scheme.
3. From the evidence put forward by the customer and the company, I understand that on 31 May 2018 the company was informed one of its assets was leaking and was flooding surrounding properties including the customer's property. The evidence shows within this initial contact from the customer there was some confusion due to an earlier text message from RST Water on the same day. The confusion was over whose asset was actual leaking, the company's or RST Water's, and the customer's partner was transferred to RST Water as the company believed that it was RST Water who had ownership. The company states the customer did not contact them again until the 18 June 2018. Within the second call the customer states she had spoken both to RST Water and the local council and they had both advised after further investigations the leaking asset was part of the company's network.
4. The company attended the site the same day and took water samples as its engineers could not establish the source of the leak. The customer received a text message later in the day stating she had a card from the engineer, this was disputed by the customer and led to the company apologising for this oversight. On 19 June 2018 the company established the leak was emanating from a stop tap at the rear of the customer's property and work commenced on 22 June 2018 to repair the company's assets. Due to the need for various footpath and cycle path closures the repair was delayed and only completed on 29 June 2018.
5. On 3 July 2018, the customer once again contacted the company stating she was still experiencing flooding within her garden. The evidence shows that [] sound loggers were deployed overnight on 3 July 2018 and these identified a potential leak 21 meters from the customer's property. Once again due to the need for permit from the council for a road closure the repair was delayed and works took place overnight on 18 July 2018, after the company had acquired an emergency permit. The repairs to the customer's property were completed on 19 July 2018, approximately just under two months after the date of the flooding. Within the company's defence it is explained the works at both repair points needed council clearance due to the company needing to dig up the highway, both which took a considerable period of time. In

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watrs.org

light of the above, I am satisfied the time taken to repair the leaks was not excessive and the company did not fail to provide its services to the customer to the standard to be reasonably expected in this respect. Additionally, after careful analysis of the various correspondence between the parties I am satisfied the company maintained an ongoing dialogue with the customer at each stage of the works. Whilst I sympathise with the customer regarding the inconvenience, stress and disruption the delay would have undoubtedly caused her, the delay was unavoidable due to it was as a result of extenuating factors. In light of the above, I find there are no grounds to conclude the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to the length of time taken repair its assets.

6. In accordance with Section 209 of the Water Industry Act 1991, the company is liable for any damage for any loss or damage caused by an escape of water from its assets. After the works had been completed the customer contacted the company on 23 July 2018 with regard to the state her garden had been left in. The company states its insurers' contractor initially attended the property on 28 July 2018 to inspect any damage and reinstate the garden. From the report it is clear that some remedial work was required to the customer's garden. However, it seems no further action has taken place since the report was issued by the company's contractor. The customer has put forward an invoice for £100.00 dated 7 November 2018 for garden cleaning and maintenance of the garden. The company has stated it was unaware further works were required; however, from the evidence provided it seems no repair works had been done in the first instance. I understand from the company's defence the company's insurers have contacted the customer once again to discuss what action is required to reinstate the garden to how it was before the flooding. Bearing this in mind, I find the customer's request the company pay for the gardener is reasonable and the company has failed to provide its services to the customer to the standard to be reasonably expected with regard to the customer's garden. Therefore, I direct the company to pay the customer £100.00 and rectify the damage within the customer's garden as highlighted in the "ABC" report dated 28 July 2018.
7. I note the customer's request that she be refunded £39.99 for the cost of the pumping equipment to remove the excess water from her property. I understand the company does not dispute this cost and the defence shows that on 20 September 2018 the company paid the customer the sum of £39.99 for this item. Accordingly, I accept that no further sums in this regard are due to the customer.

8. The customer has stated that due to actions by the company she experienced high levels of inconvenience and stress during the repair period. Furthermore, she felt that during her dialogue with the company it discriminated against her due to her being female. After careful review of the evidence put forward by both parties, I find compensation is due for inconvenience and stress incurred during and after the repair process, although not for the discrimination aspect of the customer's claim. Whilst I sympathise with the customer regarding the inconvenience, stress and disruption the incident would have undoubtedly caused her, I cannot find any evidence to support the customer's claim she was discriminated against due to the fact she is female. Furthermore, I find the redress requested of £553.00 is disproportional to the inconvenience and stress aspect of the claim and I am of the view £200.00 is a more appropriate sum bearing in mind the issues in dispute. Therefore, I direct the company to pay £200.00 to the customer to cover this aspect of the customer's claim.
9. With regard to the customer's loss of earnings of £413.40 whilst monitoring the repair process, I find no sums are due. The customer states she took in total two days holiday to deal with the repair issues. It is unclear from the evidence whether the holiday was paid holiday or not. If paid holiday, then there is no loss of earnings. If unpaid holiday, then there is a loss of earnings. However, whilst I appreciate that she may have felt she wanted to monitor the repair works, in my view the need to monitor the repair process by the customer was unnecessary. It was the customer's choice to do so and therefore any loss was not caused by the company. Accordingly, I find that this aspect of the customer's claim fails.
10. The company has certain obligations in respect of its customer services. After careful review of the evidence I find the company had not given clear or concise guidance throughout the dialogue and this failure to provide sufficiently informative responses to the customer's complaint has led to a long, drawn-out dispute. This is evidenced by the timeline of events set out in both the customer's claim documents and the company's defence. This was also highlighted by the confusion regarding whose asset was initially leaking and the message to the customer on 18 June 2018 saying she had been left a card by the company's engineers when in fact she had not. Therefore, in light of the above, I direct the company pay the customer £25.00 in respect of failing in its duty of care with regard to customer service.
11. The customer has requested an apology from the company. Having carefully considered the various correspondence put forward in evidence, as above, I am satisfied the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person. However, I am satisfied the company has apologised where appropriate within

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watrs.org

its dialogue with the customer. Therefore, I find the company is not required to provide a further apology.

12. In light of the above, I am satisfied the company did not fail to provide its services to the customer to the standard to be reasonably expected with regard to the time to repair its assets and the resulting flood damage to her property. Furthermore, I am satisfied the works were done by the company as quickly as it could, considering the circumstances. However, I find the company did fail to provide its services to the customer to the standard to be reasonably expected with regard to the reinstatement of the customer's garden which had been damaged by the flooding and in turn should pay the customer's gardener cost of £100.00. Regarding the inconvenience and stress incurred I direct the company to pay the sum of £200.00 to the customer. With regard to customer service, I am satisfied there have been failings as the company had not given clear or concise guidance throughout its dialogue with the customer, therefore I also direct the company to pay £25.00 to the customer.

Outcome

The company needs to take the following further action:

The company shall pay £325.00 to the customer and rectify the damage within the customer's garden as highlighted in the "ABC" report dated 28 July 2018.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 22 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 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.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watrs.org



**Mark Ledger FCI Arb
Adjudicator**

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

www.WATRS.org | info@watsr.org