

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1102

Date of Decision: 11 December 2018

Complaint

The customer's only claim in her application is for the company to increase the frequency of its sewer inspection schedule. The customer indicates that she has made this request because the sewer in her area is often blocked as a result of sewer misuse and this causes external sewer flooding at her property. The company has explained that the sewer in question is structurally and functionally sound; and is actually self-cleaning. The company confirms that the sewer is being blocked by deliberate misuse (customers in the area disposing of materials that block the sewer). In response to this issue, the company has implemented an awareness/education campaign in the area to prevent future sewer misuse and has agreed to a once a year inspection schedule for the sewer in question. However, the company does not accept the customer's request for a more frequent sewer inspection schedule. The customer is displeased with the company's position.

Defence

The company states that it has not acted negligently in its obligations. The external flooding experienced by the customer has been caused by misuse of the sewers and it cannot be held responsible for the actions of third-parties deliberately disposing of items that block the sewers. The company explains that it cannot foresee when these events are likely to happen. However, in response to this problem, it has already implemented an awareness/education campaign in the neighbourhood and will carry out a yearly inspection of the sewer. The sewer in question has no faults or defects. The cause of the blockages is due to sewer misuse. The company states that its actions in response to the issue are reasonable and it does not accept any liability for the customer's claim for redress.

Findings

I am not satisfied that that the company has failed to provide its services to the standard to be reasonably expected by the average person. Taking into account the remedial actions already taken by the company in response to the sewer issue, I do not find that the company's refusal to increase the frequency of its sewer inspection schedule amounts to a failure to provide its services to a

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.

reasonable standard.

Outcome

The company does not need to take any further action.

The customer must reply by 11 January 2019 to accept or reject this decision.

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.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1102

Date of Decision: 11 December 2018

Party Details

Customers: [].

Company: Thames Water, a water and sewerage company.

Case Outline

The customer's complaint is that:

- She would like the company to increase the frequency of its sewer inspection schedule. The customer proposes that the inspections are increased from once a year to every six to nine months.
- In her application, the customer indicates that the sewer in her area is often blocked as a result of sewer misuse and this causes flooding at her property.
- The customer has already requested that the company inspect the sewer more regularly to prevent the possibility of future blockages. However, the company has explained that the sewer in question is structurally and functionally sound; and is actually self-cleaning.
- The company confirms that the sewer is being blocked by misuse (customers in the area disposing of materials that block the sewer). In response to this issue, the company has implemented an awareness/education campaign in the area to prevent future sewer misuse and has agreed to a once a year inspection schedule for the sewer in question.
- However, the company has refused to increase the frequency of its inspection schedule as the current arrangement should be sufficient and it has already taken more appropriate action to resolve the underlying issue.
- The customer is not satisfied with this situation. Accordingly, the customer's only claim in her application is for the company to increase the frequency of its sewer inspection schedule.

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.

The company's response is that:

- There is no evidence that it has acted negligently in its obligations.
- The flooding experienced by the customer has been caused by misuse of the sewers (with one previous exception in 2007 where heavy rainfall was the cause of flooding).
- The company states that it cannot be held responsible for the actions of third-parties deliberately disposing of items that block the sewers.
- It appreciates that this misuse of the sewers causes inconvenience to the customer but the company cannot foresee when these events are likely to happen.
- The company explains that, in response to this problem, it has already implemented an awareness/education campaign in the neighbourhood and will carry out a yearly inspection of the sewer. It explains that this is the most appropriate way to actually resolve the underlying issue.
- The sewer in question has no faults or defects and the cause of any external flooding is due to unpredictable third-party sewer misuse.
- The company states that, in light of all the above, it does not accept any liability for the customer's claim for redress.

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.

The WATRS Scheme Rules provide detailed information on the process of adjudication, including the timing of the various stages. It is important for the smooth running of the scheme and fairness

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.

to all that time limits are respected and submissions made in good time to allow them to be properly considered as a part of the process. Furthermore, I must also draw attention to the fact that in accordance with the scheme rules, new complaints and evidence cannot be raised at the comments stage. Accordingly, I must disregard any new complaints and/or evidence introduced at the comments stage and will proceed accordingly.

How was this decision reached?

1. The customer's only claim in her application is for the company to increase the frequency of its sewer inspection schedule. The customer explains that she made this request because the sewer in her area is often blocked as a result of sewer misuse by third-parties and this causes flooding at her property. The company has responded that it cannot predict when third-parties will block the sewer through deliberate misuse. However, the company states that it has taken reasonable preventative action in response to this issue. Therefore, it does not accept the customer's request to increase the frequency of its sewer inspection schedule. The customer is not satisfied with this position and is now claiming for the company to increase the frequency of its sewer inspection schedule.
2. I remind the parties that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it. I also find it prudent to highlight that I can only address the actual element of claim as detailed in the customer's application.
3. It is not in dispute that the sewer serving the customer's area has been blocked on numerous occasions in the past; mainly as a result of sewer misuse by third-parties (such as disposal of un-flushable materials into the sewer). Furthermore, it is not in dispute that the sewer in question has no structural or functional defect/fault that causes blockage. Accordingly, it is evident that the customer's claim for an increased frequency in sewer inspection appears to be a request for the company to take a preventative measure against possible future blockages caused by potential third-party misuse of the sewer.
4. I accept that the company is under an obligation to ensure that the sewer in question is functional and free of defects. However, I do not find that the company is obliged to carry out a sewer inspection schedule devised by the customer as a preventative measure against the

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.

potential sewer misuse actions of third-parties. Whilst I appreciate that the customer believes that an increased sewer inspection schedule (to once every six to nine months) may improve the situation, based on the submissions provided, I note that there is no specific pattern between the sewer blocking incidents (with incidents occurring days or years apart). Consequently, I am inclined to accept the company's position that an increased sewer inspection schedule will not effectively resolve the underlying cause of the problem.

5. I note that, in order to resolve the sewer issue, the company has implemented an awareness/education campaign in the customer's area to ensure that no further sewer misuse occurs in the future. The company has explained that preventing the misuse of the sewer is the only effective preventative measure to ensure that third-parties do not block the sewer. In addition, I also note that the company has agreed to inspect the sewer once every year.
6. Whilst I appreciate that the customer is disappointed by the company's refusal to agree to a more frequent sewer inspection schedule, based on the submissions provided, I find that the company has presented a clear and rational reason why it has refused the request and explained why the alternative remedial actions it has taken are more appropriate under the circumstances. Consequently, in light of all the above, I am not satisfied that the company's refusal to increase its sewer inspection schedule from once a year to every six to nine months amounts to a failure to provide its services to the standard to be reasonably expected by the average person.
7. Following careful review of all the submissions provided, I am not satisfied that there are any unresolved failures on the part of the company at this time. Consequently, in the absence of any failures on the part of the company, I am unable to uphold the customer's claim for redress.
8. This concludes the WATRS stage of the customer's complaint. I remind the parties that the customer is not obliged to accept this decision.

Outcome

The company does not need to take any further action.

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.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 11 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.



E. Higashi LLB (Hons), PGDip (LPC), MCI 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.