

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1106

Date of Decision: 14th March 2019

Complaint

The customer states that there was flooding at her property that was exacerbated by the delay of the company in dealing with her complaint. She claims that this delay meant that she lost potential purchasers for her property as the buyers were put off by the problem. The customer states that the company should have foreseen the problem as it had fixed a similar issue two years previously. She alleges that the company repeatedly failed to properly deal with her complaints and that she was put to great inconvenience.

She seeks an apology and £2,500.00 in compensation for stress and inconvenience.

Defence

The company states that the fault for the flooding lay with a third party, BT. It states that it bears no responsibility for the asset that caused the problem, which was a telegraph pole. It does not accept that its complaint procedure has caused the customer financial loss. It accepts that it did fail to make call backs on occasions and that the customer had to chase it for information.

The company has made an offer of £50.00, which has been refused.

Findings

The customer has shown that the company has failed to provide its services to the standard to be expected in its actions in relation to part of her claim.

Outcome

The company shall pay compensation of £150.00 (one hundred and fifty pounds) and make an apology to the customer for the failed call backs.

The customer must reply by 12th April 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1106

Date of Decision: 14th March 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The company has provided a poor service in the way that it has dealt with her complaint.
- The complaint concerns the customer's late mother's property at []("the Property").
- The customer claims that there was a flooding issue which dates back to February 2018.
- She states that the company has failed in the way in which it has treated her complaint.
- She states that this failure has caused the problems to be prolonged.
- The customer states that she has tried to sell the Property, but that due to the ongoing issue, this was not possible.
- The customer claims that the company should have foreseen the problem with the flooding as it had previously dealt with flooding at the Property.
- The customer states that she has received compensation from BT (a third party company) for expenses relating to the problem.
- The customer seeks £2,500.00 in compensation for stress and inconvenience from the company and an apology.

The company's response is that:

- The company denies that it was responsible for a delay in repairs that cause the customer to lose potential sales of the Property.
- The company states that the asset causing the fault in the sewer line belonged to a third party company, BT.

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- The company denies that there was any action it could have taken to prevent the problem with the sewer from occurring.
- The company states that the fault that was fixed in 2016 was a different pipe from to the pipe causing the problem on 2018.
- The company states that it was held up due to the BT delays in making a decision to remove the telegraph pole.
- The company accepts that there was some failed call-backs and that the customer had to chase up progress reports.
- It has made an offer of £50.00 to the customer and this has been refused.
- The company does not accept that the customer has substantiated her claim for a remedy.

In her comments on the defence the customer states:

- That the flooding did affect the potential sale of the Property and that it was a purchaser's surveyor who raised the issue.
- She has spent much time and effort in pursuing the company to progress the investigations and repairs.
- She is unhappy with the offer of £50.00.

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.

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How was this decision reached?

1. The central point of the customer's case is that the company delayed its response to her complaints and that this led to losses for the customer. She states that the flooding to the Property meant that three buyers were put off completing a purchase of the Property.
2. The company states that the asset, a telegraph pole, that caused the flooding belonged to a third party, BT. It states that this had to be moved by BT before the company could carry out work to resolve the flooding issue.
3. For clarity, the customer must show that the company has acted in a way that constitutes a failure to provide its service to a reasonable standard. If the evidence shows that this is the case, only then can I go on to decide if such a failure lead to a loss for the customer and what remedy is suitable in the circumstances.
4. I note that it is accepted that BT was responsible for the damage to the pipes, which in turn caused the flooding. I note that the customer has already received compensation from BT for costs. It is not indicated what the amount of compensation was. I am concerned at this juncture that there may be an overlap in the claim of the customer with that claim she made against BT, for which she was compensated. It is not possible to obtain compensation twice for the same matter. However, I do note that this application is concerned with the actions of the company in its treatment of the complaints, and as I feel that this can be dealt with as a separate issue, I find that I can consider the case further on the basis that it is only the customer service element of the company's actions that is in question.
5. The customer's application states that the first written complaint was made on 21st April 2018. This is confirmed in the letter form the company to the Consumer Council for Water ("CCW") at page 72 of the CCW papers. The company states that it replied to this initial complaint within 10 days. I note that there were then a number of complaints and that the company states each was dealt with within the proper time scale. I note that the company was treating each complaint as a separate incident. However, the customer believed that there was one ongoing complaint that she was following up each time. I accept that this would be confusing for the customer. However, it is outside the scope of the WATRS scheme to comment on the manner in which the

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company wishes to address its complaints or the type of complaint procedure it wishes to employ. I can only assess the actions the company did take, specific to the customer, and whether these were to a standard to be expected. Having reviewed the evidence carefully, I do not find that there is sufficient evidence presented that the company did not address the complaints adequately.

6. The company states that the problem with the pipework that was causing the flooding was fixed on the 27th July 2018. Further, the final reply in relation to the customer's complaints was the 25th September 2018 letter referred to in paragraph 4 above. I note that the company has provided a full list of the complaints that were made by the customer. It states that a new complaint was opened each time that a fresh complaint was made. I note that the company had to wait for the third party, BT, to remove the telegraph pole before it could resolve the problem. I have looked carefully at the documentation provided by the company and accept that there was nothing that it could achieve until the telegraph pole was removed. I do appreciate that this would indeed be very frustrating for the customer.
7. The customer states that the company had dealt with a similar flooding problem at the Property in 2016 and that it was negligent not to have foreseen the problem that later occurred. The company states that the problem in 2016 was caused by different factors and was not linked with the later problem. I am not persuaded that the customer has sufficiently supported this aspect of her claim and, on the evidence provided, I do not find that any fault has been shown on the part of the company regarding its actions on 2016.
8. The company does accept that the customer had to contact it for information and that call backs were not made when promised. It has made an offer of £50.00, which has been refused. I note that the CCW has stated in its letter to the customer, at page 72 of the CCW papers, that the company's interpretation of the complaints process "needlessly elongated" the complaints process; however, it also *states* "I do not think the outcome would have changed had [] Water addressed your concerns with 1 x stage one report and 1 x stage two report before referring you to CCW water." This indicates that the delay in the complaints procedure did not have any effect on the timeliness of the flooding being fixed and, therefore, was not the source of the customer losing sales over the ongoing flooding problem. Notwithstanding, I do find that the failed call backs amount to a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person.

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9. I take into account that the time between the first complaint and the matter being resolved is four months. Whilst there is no doubt that this was a period of anxiety for the customer, I do not find that this time scale is unreasonable given the third party involvement of BT and the complications arising from that involvement.
10. I do note that the customer states she had contacted the company by email on 60 occasions and that she had made numerous calls. I note from the evidence that there was constant contact from the customer, although this volume of emails is not reflected in the evidence before me. I do realise that it is difficult for the customer to produce all the correspondence. I do accept that the customer spent much time and effort in trying to resolve the flooding issue.
11. The customer has not referred to any legislative provisions, nor has she referred to any guidance, in making her case that the company has failed in its service. I have carefully considered the legislation and cannot find any support for the customers case in this regard.
12. I appreciate that the customer is upset and that she has been through a period of anxiety regarding the issues with the Property. However, I do not find that she has shown sufficient fault on the part of the company which causes me to attach any liability to its actions.
13. On balance, I do not find that the customer has shown that the company has failed to provide its services to a standard to be reasonably expected by the average person apart from the matter of the failed callbacks which I have dealt with in paragraph 8 above.
14. Remedies. The customer seeks £2,500 in compensation. I do not make this award as I have only found fault in relation to the company's failure to provide promised callbacks to the customer. I direct that the company pays £150,00 in compensation for stress and inconvenience.
15. The customer seeks an apology. I direct that the company should make an apology to the customer in relation to its failed callbacks as dealt with in paragraph 8 above.

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Outcome

The company shall pay compensation of £150.00 to the customer and make an apology for the failed call backs.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 12th April 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.
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J J Higgins, Barrister, ACI Arb.

Adjudicator

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