

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1125

Date of Decision: 9 January 2019

Complaint

The customer states that, in 2012, he experienced internal flooding at his property. The company accepted full liability for this event and paid all the remedial costs as presented by the customer's insurance provider. The customer is not satisfied with the sums calculated by his insurance provider and is now seeking further compensation directly from the company. Specifically, the customer is seeking compensation for stress, possible devaluation of his property and increase in insurance premiums. Furthermore, he states that he has also experienced surface and foul water flooding events in 2018 due to extreme weather conditions. The customer referred his complaint to CCWater (Consumer Council for Water) who concluded that the company was not liable to provide compensation for flooding caused by extreme weather events and found no grounds to press the company any further. The customer is not satisfied with this outcome and is now seeking for the company to provide appropriate protection to prevent future flooding and to provide him with compensation in the sum of £15,000.00 (for stress, possible devaluation of his property and increase in insurance premiums).

Defence

The company states that the customer's issues relating to the 2012 flooding event are statute-barred in accordance with the Limitation Act 1980. Nonetheless, the company states that it accepted full liability for the 2012 flooding event and paid all the remedial costs as presented by the customer's insurance provider. The company states that it cannot be held accountable if the customer is dissatisfied with their insurance provider's service provision. The company confirms that the 2018 flooding events were due to extreme rainfall. The company states that it cannot be held accountable for extreme weather events of this nature. In any event, it confirms that the investigation into the 2018 flooding events found that the roadside drains and gullies had not been cleaned. This caused water to run towards to the customer's property. The company confirms that roadside drains and gullies are the responsibility of the local authority. It is therefore not responsible for any issues caused by this matter. The company states that it has nevertheless taken appropriate action to reassure the customer by offering to execute renovation works to the foul

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sewer and to remove any silt build-up from the surface water sewer. However, it is unable to take any action to guarantee that his property will not flood in the future due to extreme weather conditions or other factors outside its control. The company states that, in light of all the above, it does not accept any liability for the customer's claims for redress.

Findings

Based on the submissions provided, I am not satisfied that the company failed to provide its services to the standard to be reasonably expected by the average person. I find that the 2012 flooding event is out of time (and statute-barred) and that the company is not liable for flooding caused by extreme weather events. Consequently, in the absence of any failures on the part of the company, I am unable to uphold the customer's claims for redress.

Outcome

The company does not need to take any further action. The customer is not obliged to accept this decision and is free to further their complaint through all other avenues as available to them.

The customer must reply by 6 February 2019 to accept or reject this decision.

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Party Details

Customer: [].

Company: [].

Case Outline

The customer's complaint is that:

- In 2012, he experienced internal flooding at his property.
- The company accepted full liability for this event and paid all the remedial costs as presented by the customer's insurance provider.
- The customer is not satisfied with the sums calculated by his insurance provider and is now seeking further compensation directly from the company. Specifically, the customer is seeking compensation for stress, possible devaluation of his property and increase in insurance premiums.
- The customer states that he experienced a similar flooding event in 2006 but this was resolved by his insurance provider. Furthermore, he states that he has also experienced surface and foul water flooding events in 2018 due to extreme weather conditions. The customer states that his insurance provider is currently working on resolving the issues caused by the 2018 floods.
- The company does not accept any further liability in relation to the 2012 flooding event. The company has explained to the customer that it cannot be held accountable for the 2018 flooding events caused by extreme weather conditions but it has nonetheless agreed to carry out renovation works on the foul sewer and remove any silt build-up from the surface water sewer in order to reassure the customer it has done all it can do.
- The customer referred his complaint to CCWater who concluded that the company was not liable to provide compensation for flooding caused by extreme weather events and found no grounds to press the company any further.

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- The customer is not satisfied with this outcome and is now seeking for the company to provide appropriate protection to prevent future flooding and to provide him with compensation in the sum of £15,000.00 (for stress, possible devaluation of his property and increase in insurance premiums).

The company's response is that:

- The company does not accept the customer's claims.
- The company states that the customer's issues relating to the 2012 flooding event are statute-barred in accordance with the Limitation Act 1980. This is because this event took place more than six years ago.
- Nonetheless, the company states that it accepted full liability for the 2012 flooding event and paid all the remedial costs as presented by the customer's insurance provider. The company states that it cannot be held accountable if the customer is dissatisfied with their insurance provider's service provision.
- Furthermore, it states that there is no actual evidence that the customer's property has devalued (nor is there any evidence that his insurance premiums have increased) as a result of flooding.
- The company confirms that the 2018 flooding events were due to extreme rainfall. The company states that it cannot be held accountable for extreme weather events of this nature. In any event, it confirms that the investigation into the 2018 flooding events found that the roadside drains and gullies had not been cleaned. This caused water to run towards to the customer's property. The company confirms that roadside drains and gullies are the responsibility of the local authority. It is therefore not responsible for any issues caused by this matter.
- The company states that it has nevertheless taken appropriate action to reassure the customer by offering to execute renovation works to the foul sewer and to remove any silt build-up from the surface water sewer. However, it is unable to take any action to guarantee that his property will not flood in the future due to extreme weather conditions or other factors outside its control.
- The company states that, in light of all the above, it does not accept any liability for the customer's claims for redress.

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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 customer's claim is that, in 2012, he experienced internal flooding at his property. The company accepted full liability for this event and paid all the remedial costs as presented by the customer's insurance provider. The customer is not satisfied with the sums calculated by his insurance provider and is now seeking further compensation directly from the company. Specifically, the customer is seeking compensation for stress, possible devaluation of his property and increase in insurance premiums. Furthermore, the customer states that he also experienced surface and foul water flooding events in 2018 due to extreme weather conditions and that his insurance provider is currently working on resolving the resulting issues. The company has agreed to carry out renovation works on the foul water sewer and remove any silt build-up from the surface water sewer in order to reassure the customer it has done all it can do but it does not accept any actual liability. The customer is not satisfied with this outcome and is now seeking for the company to provide appropriate protection to prevent future flooding and compensation in the sum of £15,000.00 (for stress, possible devaluation of his property and increase in insurance premiums).

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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.
3. It is evident from the customer's application that the majority of his claims relate to an internal flooding event that occurred in September 2012. As already detailed above, the company has highlighted the Limitation Act 1980 in its defence. I note that the customer's application is dated November 2018. Accordingly, I find that the event giving rise to these claims occurred more than six years ago and I am not satisfied that there is any compelling reason in this instance why the Limitation Act 1980 should not apply. Therefore, in accordance with the provisions of the Limitation Act 1980, I must conclude that claims relating to the 2012 flooding event are now statute-barred and out of time. Consequently, I am unable to address or examine any issues relating to this matter.
4. Further to the above, and in any event, I note that the customer appears to have raised concerns regarding the services provided by his insurance provider (specifically, the customer's dissatisfaction with the amount claimed from the company by his insurance provider/the workmanship of the insurance repairs). I draw attention to the fact that the customer's insurance provider is a third-party who is not a party to this adjudication. Additionally, I note that the customer indicates that he has already complained about his insurance provider's services through the Financial Ombudsman. Accordingly, in line with the rules of this scheme which set out that complaints relating to third-parties are out of scope, I am unable to address any issues in relation to this matter.
5. It does not appear to be in dispute that the customer experienced foul and surface water flooding events in 2018 as a result of extreme weather. The customer has stated that this issue is ongoing with this insurance provider who is currently working on resolving the matter. As this matter is still ongoing through a third-party (who is also not a party to this adjudication), I am unable to comment on the final outcome of this issue (particularly, as there appears to be no final outcome on this issue to review at the time of adjudication). However, I am able to review the action/position already taken by the company in response to the customer's concerns. I will proceed accordingly.

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6. I note the parties have confirmed that the cause of the recent flooding events was extreme weather (specifically, weather events so extreme that they would only occur once every 38/179 years). Furthermore, based on the submissions provided, I note that the investigations into the flooding events discovered that the roadside drains and gullies had not been cleaned and this caused water to run directly towards to the customer's property (thus contributing to flooding). I note the company has stated that the Local Authority is responsible for the maintenance of the roadside drains and gullies and I find no substantive evidence which leads me to believe otherwise. Accordingly, under the circumstances, I do not find that the company can be held directly responsible for flooding caused by unpredictable/exceptional extreme weather events and uncleaned roadside drains and gullies (for which it is not responsible). I find that this conclusion is further supported by the OFWAT guidance document on extreme weather (as submitted in evidence), which expressly states that water companies are not liable to provide compensation for flooding caused by extreme weather events. Under the circumstances, I am not satisfied that the recent flooding events experienced by the customer were caused by any failure on the part of the company to provide its services to the standard to be reasonably expected and I do not find that the company's refusal to accept liability for the flooding caused by extreme weather amounts to a failure on its part.
7. In the interest of completeness, I note that the customer has made compensation claims against the company for possible devaluation of his property and increased insurance premiums (as a result of flooding). Upon review of all the submissions available to me at the time of adjudication, I find no actual evidence that would enable me to objectively conclude that the customer's property has been devalued or that that his insurance premiums have increased (as a direct result of flooding events and/or any failure on the part of the company to provide its services to the standard to be reasonably expected by the average person). In relation to this issue, it may be helpful to point out that it is quite common for insurance premiums to increase over time even where no claims have been made on a policy.
8. Turning to a review of the company's overall actions in response to the customer's concerns, I find that the company provided detailed responses to the customer, explained its position with reference to the evidence it had gathered following a thorough investigation and agreed to take reasonable measures to reassure the customer further. Accordingly, overall, I am not satisfied that the company's actions in relation to this issue amount to a failure to provide its services to the standard to be reasonably expected by the average person.

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9. Therefore, following careful review of all the submissions provided, I am not satisfied that the company has failed to provide its services to the standard to be reasonably expected by the average person. Consequently, in the absence of any established failures on the part of the company, I am unable to uphold the customer's claim for redress. I draw attention to the fact that the customer is not obliged to accept this decision and is free to further their complaint through all other avenues as available to them.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 6 February 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

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