

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1130

Date of Decision: 21 January 2019

Complaint

The customer's claim is the company provided poor service throughout a period of 12 months whilst the company repaired its sewers within the customer's garden. Furthermore, the repairs led to inconvenience and distress as the customer was unable to use his garden throughout the repair and reinstatement period. The customer is seeking compensation of approximately £5,000.00 for the poor service during the delay, the distress and the inconvenience incurred.

Defence

The company accepts it took a considerable period of time to fully resolve the problem in the customer's garden. However, the company submits it acted responsibly and as quickly as it could, having been delayed by factors outside of its control. The company has already provided a compensation package of £14,438.06 to the customer and offered a further goodwill payment of £1,500.00, which the customer has declined. Therefore, the company is not liable for any further damages in this respect. The company has not made any further offers of settlement.

Findings

I am satisfied the evidence shows the company did fail to provide its services to the customer to the standard to be reasonably expected regarding the delay in repairing its assets, the customer service during this period and the distress/inconvenience incurred. The reasons and evidence provided by the customer are sufficient to justify that compensation of £1,750.00 should be paid by the company.

Outcome

The company needs to pay the customer £1,750.00.

- The customer must reply by 18 February 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.

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ADJUDICATOR'S DECISION

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Date of Decision: 21 January 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company provided poor service throughout a period of 12 months whilst the company repaired its sewers within the customer's garden and reinstated the garden to its original condition.
- Furthermore, he was unable to use his garden as intended throughout the period of repair and reinstatement which led to inconvenience and distress.
- The customer is seeking compensation of approximately £5,000.00 for the poor customer service, the distress and the inconvenience incurred.

The company's response is that:

- The company accepts it took a considerable period of time to fully resolve the problem within the customer's garden; however, the company acted responsibly and as quickly as it could.
- Furthermore, the discovery of unmapped sewers and other factors such as weather conditions that were outside the company's control led to further unavoidable delay.
- The company accepts it did provide some poor service whilst communicating with the customer, which it has factored into its goodwill offer £1,500.00 as well as the GSS payments included within the compensation package of £14,438.06 already paid to the customer.
- The company has already provided a compensation package of £14,438.06 to the customer and offered a further goodwill payment of £1,500.00, which the customer has declined. Therefore, the company submits it is not liable for any further damages in this respect.

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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 the company has failed to provide its services to the standard one would reasonably expect and 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 should be compensated for poor customer service, distress, and inconvenience incurred whilst the company was repairing its assets within the boundary of the customer's 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 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 it'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 (GSS).
3. The evidence shows the customer contacted the company on Sunday, 25 June 2017 to report his garden had become flooded with sewage. The company attended the property on 26 and 27 June 2017 and established the leak was due to a displaced joint on a sewer that ran through the customer's garden. Between 27 June 2017 and 31 August 2017, the company replaced 10

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meters of sewer, installed an overflow sewer, removed roots from the existing sewer and relined a further 40 meters of sewer to resolve the issue. A camera survey and dye test on 2 September 2017 showed the repair process had been successful. Various correspondence between the parties took place during these works concerning the damage impact on the customer's property, the company's work team not arriving when scheduled, company equipment left on the customer's premises and the quality of the works undertaken.

4. On or about 4 September 2017, the customer raised concerns about the newly installed overflow pipe not being lined and the company agreed to line the new pipework, despite in its view it not being necessary. The additional works were completed on 11 October 2017 and the company began the process to reinstate the customer garden back to its original condition. The customer requested the company use his appointed landscape gardeners as, in his view, the company's usual process to soil and seed the area was insufficient due to the damage caused by the works. Various correspondence took place between the parties regarding what works and costs were required to restate the customer's garden. This correspondence concluded with the company agreeing on 28 November 2017 to cover the costs of the customer's landscape gardener.
5. On 9 February 2018, the customer once again contacted the company to inform them his landscape gardener could not complete his works due to further leakage of sewage from the company's assets. On the same day the company attended the property; however, it was unable to conduct further testing due to the gradient of garden and it being dark. The company revisited the customer's premises on 12 February 2018, and it was established the new leak was emanating from a sewer of which an unmapped section ran through the customer's property. Between 28 and 29 March 2018, 19 meters of the unmapped sewer were relined and on 22 April 2018 a further additional patch liner was complete. The company defence states the company was hoping to complete this relining process sooner but, due to the extreme weather conditions experienced within this period, it was not possible. Further tests were completed on 27 April 2018, which showed all the company's assets within the customer's property boundaries were now in good working order.
6. On 18 June 2018, the customer once again contacted the company to advise he had found a further soft spot on his lawn. The company visited the same day and was unable to find any defects with its assets within the customer's property. On 3 July 2018, after further investigations, it was established the leak was emanating from a damaged land drain that was

private. As a gesture of goodwill, the company agree to replace 10 meters of this pipework, although it was under no obligation to do so.

7. With regard to the customer's comments that the repairs took a considerable period of time to complete, the company accepts this and the reasons are explained within its defence. I acknowledge the various arguments put forward by the company that it acted as quickly as possible and it was delayed by factors outside its control. However, I find that, after careful analysis of both the company's and customer's timeline these arguments do not fully explain the considerable time taken to repair the company's assets and to reinstate the customer's garden. An example would be the missed or cancelled site visits from the company's contractors in between February and May 2018 and then the subsequent delays in commencing the agreed works thereafter. I appreciate the inconvenience the delay would have caused the customer and I am satisfied the company's service and actions were not of a standard to be reasonably expected in this respect. I find the evidence does support the customer's position and so this aspect of the customer's claim succeeds.
8. I am mindful of the customer's comments that he was unable to use his garden as intended throughout the period of repair and reinstatement. As above, I have found the company caused delay and the evidence supports the customer's position, so this aspect of the customer's claim succeeds.
9. I note the customer's comments regarding the company's equipment blocking access to the customer and his neighbours' property throughout a considerable period of the repair works. The company does not dispute they stored equipment on the customer's property; however, it is of the view that this equipment did not block access to the property, as the area where the equipment was stored was on a side road that provided additional access to the customer's property. The customer states that after he had given his neighbour permission to use the side road and his neighbour then had to contact the company numerous times asking when the equipment would be moved, so they could commence works on their boundary fence. In this regard I am of the view that the customer was well aware of the equipment being stored on the access road at this time and could, if required, ask the company to move it to enable access to his neighbour's property. Accordingly, I am satisfied the company's service and actions were reasonable in this respect and I find they did not cause any loss or delay. Whilst I appreciate the inconvenience the stored equipment would have caused the customer's neighbour, I find the evidence does not support the customer's position and so this aspect of the customer's claim fails.

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10. I note the customer has requested redress of £5,000.00 for the various failures by the company due to the delay in repairing its assets and reinstating the garden. The company states within its defence it has already provided a compensation package of £14,438.06. However, I find this is incorrect as £478.06 of this sum is made up of GSS payments and the balance is the cost to the company of reinstating the customer's garden to the same condition as it was before the leak. The company agreed with the customer to pay this cost to reinstate the garden to the same condition as it was before its assets had damaged it, not as suggested by the company as compensation for such damage. As explained within the company's defence, the company has offered a further goodwill payment of £1,500.00 and it was of the view that the offered sum was fair. On careful review of the evidence, I find the offered payment of £1,500.00 does not adequately reflect the level of inconvenience and nuisance experienced by the customer. The inconvenience and nuisance experienced lasted far longer than the 141 days stated by the company. I am conscious that it was not just the delay in commencing repairs, but the inconvenience and nuisance experienced during and leading up to those repairs. In my view it started from when the first flooding of the customer's property occurred through to the when the works were complete.
11. I also understand from the company's defence it has recognised three customer service failures which fall under its GSS Scheme. The evidence shows the required GSS payments have been processed for these failures and credits totalling £478.06 have been applied to the customer's account. I am satisfied the GSS payments adequately compensate the customer for these GSS failures and the company need to take no further action in this regard.
12. In light of the above, I find the company failed, when dealing with the customer's complaint, to provide its services to the standard to be reasonably expected. Nonetheless, whilst I sympathise with the customer regarding the inconvenience, stress and disruption, I find the redress requested of £5,000.00 is disproportional to the claim. As found above, I am also of the view the sum offered by the company of £1,500.00 is disproportional to the claim considering the length of time to repair the sewers and the inconvenience and nuisance incurred during that period. On careful review of all the evidence I am satisfied a more appropriate sum bearing in mind the issues in dispute is £1,750.00. Therefore, I direct the company to pay £1,750.00 to the customer to cover this aspect of the customer's claim.
13. In light of the above, I am satisfied the evidence points to the fact the company failed to provide its services to the customer to the standard to be expected with regard to the delay in repairing

its assets within the customer's property and the evidence shows the company failed, when dealing with the customer's complaint, to provide customer services to the standard to be reasonably expected both of which led to additional inconvenience and distress. Therefore, I direct the company to pay £1,750.00 to the customer.

Outcome

The company needs to take the following further action:

The company shall pay £1,750.00 to the customer.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 18 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.



**Mark Ledger FCI Arb
Adjudicator**