

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1204

Date of Decision: 28 March 2019

Complaint

The customer states that, in November 2016, the wholesaler (RST Water) sent them a bill with an incorrect charge banding for surface water drainage. The customer challenged this incorrect banding shortly after receiving the bill. However, the wholesaler provided the customer with incorrect information, which delayed a surface water re-banding application being submitted (it was eventually submitted in January 2018). The customer accepts that the wholesaler has now correctly applied its set policy regarding the backdating of their surface water drainage charges. However, the customer asserts that the wholesaler failed to provide sufficient information for them to make an earlier application. Consequently, the customer's claim is that they should be entitled to have their band 3 surface water drainage charges backdated to 1 August 2015. Furthermore, the customer is claiming £400.00 for the time spent on this issue.

Defence

The company explains that the water wholesaler's position is that it has correctly backdated the re-banding of the customer's surface water drainage charges in line with its set policy. The wholesaler does not accept that it should backdate the customer's re-banding to 1 August 2015. The company has challenged the wholesaler's position on behalf of the customer (in its capacity as the customer's water retailer) but the wholesaler has advised that it will not depart from its set policy and therefore rejects the customer's claim. The company states that, in light of the above, it does not accept any further liability for the customer's claims for redress.

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Findings

I am not satisfied that the company failed to provide its services to the standard to be reasonably expected by the average person. The company has demonstrated that it appropriately carried out its obligations in its capacity as the customer's water retailer. Consequently, in the absence of any material failures on the part of the company, I find that the customer's claims for redress cannot succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 29 April 2019 to accept or reject this decision.

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The company's response is that:

- The company confirms that the customer's surface water drainage re-banding application to the wholesaler was made in January 2018. In line with the wholesaler's set policy, the customer's re-banding was therefore backdated to 1 April 2017.
- The company also confirms that it is the wholesaler's set policy to only backdate charges to the start of the financial year in which an application is submitted.
- The company accepts that there was some delay on its part in submitting the customer's documents to the wholesaler. However, this would not have affected the wholesaler's decision to backdate the customer's charges to 1 April 2017. In any event, whilst this caused no material impact to the customer, the company has provided the customer with a £20.00 gesture of goodwill.
- The company states that it has fulfilled its obligations as the customer's retailer by challenging the wholesaler's decision on their behalf. However, the wholesaler has declined to change its position.
- In light of the above, the company does not accept that it has failed in its obligations as the customer's water retailer. Therefore, the company does not accept any liability for the customer's claims 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.

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How was this decision reached?

1. The customer's complaint is that the water wholesaler has rejected their claim to further backdate their surface water drainage re-banding to 1 August 2015. The wholesaler has explained that the customer's claim was rejected because it has already backdated their surface water drainage re-banding in accordance with its set policy. The customer is unhappy with this position and is now claiming to have their band 3 surface water drainage charges backdated to 1 August 2015. Furthermore, the customer is seeking £400.00 for the time spent on this issue.
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. I acknowledge that the basis of the customer's complaint lies with their dissatisfaction with the decision of the wholesaler to reject their claim to further backdate their surface water drainage re-banding to 1 August 2015. In order to make a decision in this matter, I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.
4. Whilst I am unable to consider the customer's complaint about the wholesaler's decision to reject their claim to further backdate their surface water drainage re-banding to 1 August 2015, I can look at whether the service provided by the company (LMN Limited) has met the standard to be reasonably expected (of a water retailer) by the average person.
5. Following careful review of all the submissions and documents provided by the respective parties, overall, I am satisfied that the company has met its obligations to the customer as a water retailer. Specifically, I note that the company pursued the wholesaler on the customer's behalf and appropriately conveyed their challenge to its rejection of their claim.

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6. However, the wholesaler ultimately declined to depart from its set policy, explained how it reached its decision and upheld the rejection of the customer's claim. The company then conveyed the wholesaler's position to the customer. Accordingly, under the circumstances, I am satisfied that the company acted appropriately to pursue the wholesaler in relation to the customer's complaint and appropriately explained its position to the customer.
7. I note that the company has highlighted an oversight (which does not seem to have been raised by the customer in their application form) on its part because there was some administrative delay in submitting the customer's documents to the wholesaler. Specifically, I acknowledge that the customer's documents were received in November 2017 but were provided to the wholesaler in January 2018. However, under the circumstances, I accept that this particular oversight caused no material detriment to the customer as the wholesaler's position in relation to the customer's claim would not have changed. Furthermore, I am satisfied that the company's provision of a £20.00 gesture of goodwill (in recognition of its oversight) was fair and reasonable. Accordingly, I am satisfied that this issue has already been appropriately addressed by the company.
8. Therefore, in light of all the above, I am not satisfied that there are any unresolved material failures on the part of the company to provide its services to the standard to be reasonably expected by the average person. Consequently, in the absence of any unresolved failures on the part of the company, I find that I am unable to uphold the customer's claims for redress.
9. This marks the end of the WATRS stage of the customer's complaint. The customer is not obliged to accept this decision and is free to pursue resolution through all other avenues as available to them.

Outcome

The company does not need to take any further action.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 29 April 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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