

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1206

Date of Decision: 15 March 2019

#### Complaint

The customer states that, in accordance with the wholesaler's leak allowance policy, they were provided with a leak allowance in 2018 backdated for 13 months from the repair date. The customer believes that there has been a leak on their premises for about 10 years and they should therefore be entitled to a further leak allowance backdated to this time. Therefore, the customer is claiming £2,500,000.00 in allowances. The company has investigated the customer's claims on their behalf; however, the wholesaler has concluded that the correct water leakage allowance has already been paid. It has therefore declined to pay £2,500,000.00 to the customer. Consequently, the customer's claim is that they should be entitled to a payment of £2,500,000.00 (a leakage allowance payment backdated for 10 years).

#### Defence

The company explains that the water wholesaler's position is that it has correctly provided the customer with a leakage allowance in line with its set policy. There is no evidence that a water consumption increase in 2017 was due to an on-going 10 year leak. 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 liability for the customer's claim for redress.

#### 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 failures on the part of the company, I do not uphold the customer's claim for redress.

#### Outcome

The company does not need to take any further action.

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

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customer's account; it was contacted by the customer in February 2013 to ask for assistance. The wholesaler sent investigators but ultimately found no leaks.

- The customer also hired a third-party organisation (PQR Water) to check for leaks at this time. However, it appears that its investigations concluded that no leaks could be detected.
- With regards to the 2017 water consumption increase, the company carried out a leak detection investigation and identified a leak in 2018. The leak was then repaired promptly.
- Following repair of the leak, RST Water (the wholesaler) provided the customer with a leak allowance in accordance with its set policy.
- The customer then claimed that the 2017 consumption increase and the increase 10 years ago were linked and therefore claimed a further allowance for 10 years at £250,000.00 per year.
- The company states that it cannot be held responsible for any issues that occurred before it came into existence. However, with regards to the 2017 increase, it confirms that it has acted in the best interests of the customer and took all necessary steps to meet its obligations (such as arranging leak detection visits and making repairs as appropriate). It also escalated the customer's request for a further leak allowance with the wholesaler, RST Water.
- The company confirms that the wholesaler reviewed all the information provided by the customer and concluded that the leak allowance provided was correct and in line with its set policy. The company states that it is a retailer and is bound by the wholesaler's determinations.
- Whilst the company appreciates the customer's beliefs, the wholesaler's investigators have confirmed that it would be unusual for consumption to only increase 10 years after a leak is alleged to have emerged. It would be more usual to expect that consumption would consistently increase and progressively worsen. However, this was not the case as shown in the evidence provided.
- 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 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.

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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 wishes to raise a complaint because their water wholesaler has rejected their claim for a further water leakage allowance. The wholesaler has explained that the customer's claim was rejected because it has already provided the customer with a leakage allowance in accordance with its set policy. The customer is unhappy with this position and is now claiming for £2,500,000.00 in leak allowances.
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 important to note that the compensation limit for this scheme is set at £25,000.00. I note that the customer's claim far exceeds this sum. As such, I am only able to consider the customer's claim up to the maximum compensation limit of the scheme. I will proceed accordingly.
4. I note that the basis of the customer's complaint lies with their dissatisfaction with the decision of the wholesaler to reject their leak allowance claim in accordance with its set leak allowance policies. 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

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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.

5. Whilst I am unable to consider the customer's complaint about the wholesaler's decision to reject their water allowance claim, I can look at whether the service provided by the company (LMN Water Limited) has met the standard to be reasonably expected by the average person. In particular, I can consider whether LMN Water Limited sufficiently pursued the wholesaler in relation to the customer's complaints.
6. 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. I can see that the company pursued the wholesaler on the customer's behalf and conveyed their challenge to its rejection of their claim.
7. However, the wholesaler declined to depart from its set policy, explained how it reached its decision based on the information available and upheld the rejection of the customer's claim. Additionally, the wholesaler explained to the company that there is no evidence there was an on-going leak at the customer's premises for 10 years; therefore, it rejected 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. I note that this finding is further supported by CCWater's (Consumer Council for Water) investigation outcome where it concluded that the company had already appropriately addressed all the issues raised and therefore there were no grounds to pursue the company any further.
8. Therefore, in light of all the above, 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 failures on the part of the company, I am unable to uphold the customer's claim for redress.

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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.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 12 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), MCIArb.

**Adjudicator**

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