

# WATRS

## Water Redress Scheme ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1215

Date of Decision: 27 February 2019

### Complaint

The customer states that her property suffers from subsidence. She believes that defects (cracks, fractures and joint displacement) on the company's sewer pipe are the cause of this issue. The customer has contacted the company in relation to this matter. However, following investigation, the company is confident that the customer's subsidence has not been caused by its sewer pipe. The company accepts that there are defects on the sewer pipe but it is entirely serviceable and is not causing subsidence at the customer's property. Nonetheless, the company has offered to re-line the sewer pipe in order to reassure the customer. The customer feels that this is insufficient and is therefore claiming for the company to completely replace its sewer pipe instead.

### Defence

The company does not accept any liability to the customer. It has carried out a full investigation into this issue and is confident that the company's sewer pipe is not causing any subsidence at the customer's property. The company accepts that there are defects on the sewer pipe but explains that these do not affect its serviceability. The pipe is entirely functional and not causing any damage. However, in order to reassure the customer, the company agreed to reline the sewer pipe. This would increase the performance and longevity of the sewer pipe. This resolution has been accepted by the customer's insurer but the customer is requesting a complete replacement of the sewer pipe. The company explains that this is not necessary, very expensive and would require the demolition of the customer's garage. The company states that, in light of all the above, it does not accept any liability for the customer's claim for redress.

### Findings

Under the circumstances, I am not satisfied that the company's refusal to completely replace the sewer pipe (instead of relining the pipe as already accepted by the customer's insurer) amounts to a failure on its part to provide its services to the standard to be reasonably expected by the average person.

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**Outcome**

The company does not need to take any further action.

The customer must reply by 27 March 2019 to accept or reject this decision.

## **ADJUDICATOR'S DECISION**

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**Date of Decision: 27 February 2019**

### **Party Details**

**Customer:** [ ].

**Company:** [ ].

### **Case Outline**

#### **The customer's complaint is that:**

- Her property suffers from subsidence.
- She believes that defects on the company's sewer pipe are the cause of this issue.
- The customer has contacted the company in relation to this matter. However, following investigation, the company is confident that the customer's subsidence has not been caused by its sewer pipes. The company accepts that there are defects on the sewer pipe but it is entirely serviceable and is not causing subsidence at the customer's property.
- Nevertheless, the company has offered to re-line the sewer pipe in order to reassure the customer.
- The customer feels that this is insufficient and is therefore claiming for the company to completely replace its sewer pipe instead.

#### **The company's response is that:**

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- It has carried out a full investigation into this issue and is confident that the company's sewer pipe is not causing any subsidence at the customer's property.
- The company accepts that there are defects on the sewer pipe but explains that these do not affect its serviceability. The pipe is entirely functional and not causing any damage.
- However, in order to reassure the customer, the company has offered to reline the sewer pipe. This would increase the performance and longevity of the sewer pipe. This resolution has been accepted by the customer's insurer.
- The company acknowledges the customer's request for it to completely replace the sewer pipe. However, it explains that this is not necessary, very expensive and would require the demolition of the customer's garage.
- The company states that, in light of all the above, it 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.

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?

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1. The crux of this dispute lies with the customer's belief that the company's sewer pipe is causing subsidence at her property (due to defects on the pipe). The customer has complained to the company about this issue but, following investigation, it does not accept that its sewer pipe is causing subsidence at her property. The company accepts that there are defects on the sewer pipe but explains that these do not affect its functionality. Nonetheless, in order to reassure the customer, the company has offered to reline the sewer. This resolution has been accepted by the customer's insurer. However, the customer does not feel that this is sufficient and is now claiming for the company to completely replace the pipe.
2. At this juncture, I find it prudent to remind the parties that I am not a structural engineer or subsidence expert. Accordingly, I am unable to make any definitive independent determinations regarding the exact cause of the subsidence at the customer's property. Nor am I able to make any definitive independent determinations regarding the remedial actions required to resolve the subsidence issue. As a WATRS adjudicator, my role is to examine the parties' respective submissions and determine whether the company has provided its services to the standard to be reasonably expected by the average person. I will proceed accordingly.
3. I acknowledge that two separate investigations have been carried out with regards to the sewer pipe issue. The first investigation was carried out by an organisation appointed by the customer's insurers. This investigation found a number of defects on the company's sewer pipe and suggested that this could be contributing to the customer's subsidence issue. The first investigation therefore advised that the company should reline the pipe.
4. The second investigation was carried out by the company's site inspection team. This investigation ultimately confirmed that there were defects on its sewer pipe; however, these did not affect the functionality of the pipe itself and could not have caused any subsidence issues at the customer's property. Nevertheless, in order to reassure the customer, the company agreed to reline the sewer (as suggested by the first investigation and further confirmed in the letter from the customer's insurer dated 21 February 2018) and the customer's insurer accepted this resolution. Accordingly, from an objective viewpoint, I find that the company's actions were fair and reasonable under the circumstances and I am not satisfied that they amount to a failure to provide its services to the standard to be reasonably expected by the average person.
5. I note that the customer's only claim is for the company to completely replace the sewer pipe as she feels that relining it is not sufficient. However, it is evident that the customer's own insurer

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concluded that relining would be an appropriate resolution and it was satisfied when the company agreed to do this. Based on all the submissions provided, I am unable objectively conclude that the resolution suggested by the customer's insurer (and agreed with the company) would be insufficient and that a full replacement of the pipe is warranted. Accordingly, I am not satisfied that the company's agreement to implement the resolution put forward by the customer's insurer and its refusal to deviate from this agreed resolution amounts to a failure to provide its services to the standard to be reasonably expected by the average person.

6. Therefore, following careful review of all the submissions provided, I am not satisfied that the evidence shows any failures on the part of the company. Consequently, in the absence of any established failures on the part of the company, I do not uphold the customer's claim for redress.
7. This concludes 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 avenues as available to her.

#### 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 27 March 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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