

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1230

Date of Decision: 7 March 2019

Complaint

The customer believes that the company damaged his private sewer and manhole. He therefore sought full compensation for this from the company. The company did not accept that it was the cause of any damage to the customer's private sewer and manhole and was therefore unwilling to pay the full repair costs. However, the company accepted that it was possible that pre-existing damage on the customer's private assets could have been made worse when accessing its sewer to make repairs in 2018. Accordingly, as a gesture of goodwill, the company offered the customer £500.00. The company estimates that this sum represents half the cost of the necessary repairs. The customer does not accept this and believes that the repairs will cost in excess of £2000.00. Consequently, the customer's only claim is for the company to either repair or pay for the full repair of his private sewer and manhole.

Defence

The company disputes that it has caused any damage to the customer's private sewer and manhole. The company states that there is no actual evidence to support the customer's beliefs in this regard. The company acknowledges there is a possibility that the remedial works carried out on its assets in 2018 could have worsened existing damage on the customer's private assets. Despite the low possibility of this, as a gesture of goodwill, it has offered to pay the customer £500.00. This represents half of its estimated repair cost for the customer's assets. The customer did not accept this offer. Nevertheless, the company states that it will stand by its offer to pay half of the customer's costs (as a gesture of goodwill). It states that it will even offer to increase its payment to £1000.00 if the customer is able to provide evidence (at least two quotations) that the cost of repairing his private assets will be £2000.00.

Findings

Under the circumstances, I am not satisfied that the company's refusal to accept full liability for repairing the customer's private assets 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 4 April 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Party Details

Customer: [].

Company: [].

Case Outline

The customer's complaint is that:

- The customer believes that the company damaged his private sewer and manhole. The customer therefore claimed that the company should pay for the full costs of repairing his sewer and manhole.
- The company did not accept that it was the cause of any damage to the customer's private sewer and manhole and was therefore unwilling to pay the full repair costs. However, the company accepted that it was possible that pre-existing damage on the customer's private assets could have been made worse when accessing its sewer to make repairs in 2018. Accordingly, as a gesture of goodwill, the company offered the customer £500.00. The company estimates that this sum represents half the cost of the necessary repairs.
- The customer does not accept this and believes that the repairs will cost in excess of £2000.00.
- Consequently, the customer's only claim is for the company to either repair or pay for the full repair of his private sewer and manhole.

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The company's response is that:

- It acknowledges the customer's claims. However, it disputes that it has caused any damage to the customer's private sewer and manhole. The company states there is no actual evidence that supports the customer's beliefs in this regard.
- It notes that the customer's statement that the cost of repairing his private assets would be £2000.00. However, there is no evidence that supports this statement.
- The company acknowledges there is a possibility that the remedial works carried out on its assets in 2018 could have worsened existing damage on the customer's private assets. Despite the low possibility of this, as a gesture of goodwill, it has offered to pay the customer £500.00. This represents half of its estimated repair cost for the customer's assets. The customer did not accept this offer.
- Nevertheless, the company states that it will stand by its offer to pay half of the customer's costs (as a gesture of goodwill). It states that it will even offer to increase its payment to £1000.00 if the customer is able to provide evidence (at least two quotations) that the cost of repairing his private assets will be £2000.00.

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 crux of this dispute lies with the customer's belief that the company damaged his private sewer and manhole. The company does not accept that it was the cause of any damage to the customer's private assets. However, it accepts that there is a possibility that its repair works may have worsened any pre-existing damage on the customer's private assets. Accordingly, as a gesture of goodwill, the company has offered to pay half the cost of repairing the customer's private assets. The company estimates that this sum should be £500.00. The customer disputes this and states the cost of repair would be £2000.00. The customer is now claiming that the company should either pay £2000.00 for the repairs or repair his sewer and manhole directly.
2. At this juncture, I find it prudent to remind the parties that I am not a water network engineer or expert. Accordingly, I am unable to make any definitive independent determinations regarding the exact cause of the damage to the customer's private sewer and manhole. Nor am I able to make any definitive independent determinations regarding the reasonable cost of repairing the damage on the customer's private assets. In addition, it is beyond the remit of this scheme to commission any new investigations to determine the causes of any damage to the customer's private assets. 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. Following close review of all the evidence submitted by the respective parties, I find that I am unable to objectively and/or definitively conclude that the company has caused any damage to the customer's private assets. I appreciate and understand the inherent difficulty for the customer to meet his evidential burden in this regard. However, I am only able to base my decision on the evidence available to me at the time of adjudication. Under the circumstances, I do not find that the company has failed to provide its services to the standard to be reasonably expected by the average person.
4. In the interests of completeness, I acknowledge that the customer has submitted a short 16 second video clip of a water pipe survey in support of his claim. Upon review of this video clip, I am unable to determine the geographic location of the pipes being examined. Furthermore, and more importantly, I note that the date stamp on this video clip is dated 28 July 2010 (almost

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eight years prior to the company's repair works). Consequently, under the present circumstances, I am unable to attach any weight to this evidence.

5. I note that the customer's only claim is for the company to either pay him £2000.00 for the cost of repairing his private assets or to make the repairs itself. Whilst I acknowledge the customer's assertion that the cost of repairing his private assets is £2000.00, I am not satisfied that this figure has been substantiated with any objective evidence (such as quotation from an independent third-party). Accordingly, I am unable to conclude that the customer's asserted projection of £2000.00 provides an accurate reflection of the cost of repairing his private assets.
6. Regardless of all the above, I note that the company has stated that (whilst it does not accept it has caused the damage to the customer's private assets) it acknowledges the possibility that pre-existing damage could have been made worse as a result of its repair works. Accordingly, it has offered to pay the customer half of his repair costs. The company has estimated that it would cost £1000.00 to repair the customer's private assets and has therefore offered £500.00 to the customer. The company has also stated that, if the customer is able to provide independent evidence that the cost of repair is £2000.00 (based on two independent quotations), it will pay for half of his repair costs. Under the circumstances, I find that the company's actions were fair and reasonable and I cannot objectively conclude that they amount to a failure to provide its services to the standard to be reasonably expected by the average person.
7. 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. In the interests of completeness, I must make it clear that as there have been no established breaches on the part of the company, I am unable to oblige it to carry out any gestures of goodwill.

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8. 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 him.

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 4 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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