

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1243

Date of Decision: 19 February 2019

Complaint

The customer states that, in 2016, he experienced a flooding event (as a result of hydraulic overload caused by extreme rainfall) at his property that was costly to repair. The customer is now concerned about the possibility of this occurring again and is seeking reassurance from the company that it is improving its system. The customer is concerned that, if a similar extreme rainfall event occurs in the future, his property will flood again. The customer states that the company has investigated this issue but has found that its sewers are adequately operational. Therefore, it does not believe any improvement works are required at this time. The company's position is that it cannot completely eliminate the possibility of extreme weather causing flooding in future. The customer is not satisfied with this outcome and is now claiming for the company to upgrade the sewerage system that serves his property in order to prevent any future possibility of flooding.

Defence

The company confirms that, in response to the customer's concerns, it carried out a survey (and a clean) of the sewer lines serving his property and found no material defects that could cause any substantive operational issues. The company confirms that the flooding event experienced by the customer was caused by extreme rainfall that resulted in hydraulic overload. The company explains that it cannot be held accountable for flooding caused by extreme weather events of this nature and it does not accept that there has been any negligence on its part. The company appreciates the customer's concerns about future flooding but explains that it is not possible for it to entirely eliminate the possibility of future flooding caused by weather extremes. The company states that, in light of all the above, it does not accept any liability for the customer's claim for redress.

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Findings

Based on the submissions provided, I am not satisfied that the company failed to provide its services to the standard to be reasonably expected by the average person. I find that the company is not obliged (contractually or otherwise) to entirely eliminate the possibility of an extreme weather event causing flooding at the customer's property in the future. Consequently, in the absence of any failures on the part of the company, I am unable to uphold the customer's claims for redress.

Outcome

The company does not need to take any further action. The customer is not obliged to accept this decision and is free to further their complaint through all other avenues as available to them.

The customer must reply by 19 March 2019 to accept or reject this decision.

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Party Details

Customer: [].

Company: [].

Case Outline

The customer's complaint is that:

- In 2016, he experienced a flooding event (as a result of hydraulic overload caused by extreme rainfall) at his property which was costly to repair.
- The customer is now concerned about the possibility of this occurring again and is seeking reassurance from the company that it is improving its system.
- The customer is concerned that, if a similar extreme rainfall event occurs in the future, his property will flood again.
- The customer states that the company has investigated this issue but has found that its sewers are adequately operational. Therefore, it does not believe any improvement works are required at this time. The company's position is that it cannot completely eliminate the possibility of extreme weather causing flooding in future.
- The customer is not satisfied with this outcome and is now seeking for the company to upgrade the sewerage system that serves his property in order to prevent any future possibility of flooding.

The company's response is that:

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- The company confirms that, in response to the customer's concerns, it carried out a survey (and a clean) of the sewer lines serving his property and found no material defects that could cause any substantive operational issues.
- The company confirms that the flooding event experienced by the customer was caused by extreme rainfall that resulted in hydraulic overload. The company explains that it cannot be held accountable for flooding caused by extreme weather events of this nature and it does not accept that there has been any negligence on its part.
- The company confirms that the issue has been referred to CCWater (Consumer Council for Water) who concluded that the company cannot be held accountable for flooding caused by extreme weather events that overload the normal capacity of the sewers.
- The company appreciates the customer's concerns about future flooding but explains that it is not possible for it to entirely eliminate the possibility of future flooding caused by weather extremes.
- 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 customer's claim is that, in 2016, he experienced a flooding event (as a result of hydraulic overload caused by extreme rainfall) at his property that was costly to repair. He is now concerned about the possibility of this occurring again and is seeking reassurance from the company that it is improving its system. The company has investigated this issue but has found that its sewers are adequately operational. Therefore, it does not believe any improvement works are required at this time. The company's position is that it cannot completely eliminate the possibility of extreme weather causing flooding in future. The customer is not satisfied with this outcome and is now seeking for the company to upgrade the sewerage system that serves his property in order to prevent any future possibility of flooding.
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 not disputed that the cause of the flooding event in 2016 was hydraulic overload (caused by extreme rainfall). Furthermore, having reviewed all the submissions provided, I find no objective evidence that shows the flooding event in 2016 had been caused by any negligence on the company's part. Under the circumstances, I do not find that the company can be held directly responsible for flooding caused by unpredictable/exceptional extreme weather events (I draw attention to the fact that this finding is supported by the OFWAT guidance document on extreme weather and CCWater's findings in relation to this dispute). In light of the above, I do not find that the flooding event experienced by the customer in 2016 was caused by any failure on the part of the company to provide its services to the standard to be reasonably expected by the average person.
4. The customer's present claim is for the company to upgrade the sewerage system that serves his property in order to prevent any possibility of future flooding. I note that the investigations carried out in response to the customer's concerns found that the company's sewers were adequately operational. Upon review of all the evidence provided, I am not satisfied that the company is under any obligation (contractual or otherwise) to completely eliminate the possibility of the customer's property flooding in future as a result of extreme weather events. Nor do I find any obligation on the part of the company to provide its customers with a guarantee that its sewer system is able to withstand all manners of extreme weather. Accordingly, I do not find that the company's refusal to upgrade the sewerage system serving the customer's property (to

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entirely eliminate any possibility of flooding from extreme weather) and to provide reassurances that flooding caused by extreme rainfall will not occur in the future amounts to a failure to provide its services to the standard to be reasonably expected by the average person.

5. Turning to a review of the company's overall actions in response to the customer's concerns, I find that the company provided detailed responses to the customer, explained its position with reference to the evidence it had gathered following a thorough investigation and provided the customer with a fair and reasonable gesture of goodwill. In addition, I note that the company also undertook a further clean of the sewer for the customer's benefit. Accordingly, overall, I am not satisfied that the company's actions in relation to this issue amount to a failure to provide its services to the standard to be reasonably expected by the average person.

6. Therefore, whilst I understand and appreciate the customer's concerns with regards to the possibility of future flooding at his property due to extreme weather events, my remit under this scheme is only to determine whether the company has failed to provide its services to the standard to be reasonably expected by the average person. Following careful review of all the submissions provided, 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 established failures on the part of the company, I am unable to uphold the customer's claim for redress.

Outcome

The company does not need to take any further action.

What happens next?

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- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 19 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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