

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1287

Date of Decision: 25 March 2019

Complaint

The customer states that he has been complaining to the company for the last two years about sewer odours in his property (however, he explains that the issue had been getting progressively worse before this time). He is dissatisfied with the company's various actions in relation to this issue. The company has offered the customer £250.00 in recognition of accepted failures on its part. However, the customer is not satisfied with this outcome and is seeking further compensation (in the sum of £2500.00), an apology, for the company to re-lay his path and clean up the site.

Defence

The company confirms that it had to attend the customer's property on numerous occasions in connection with the sewer odour issue. It accepts that there were failures on its part in relation to this matter but it has taken appropriate remedial action to resolve these matters and offered appropriate compensation. It does not accept that it is liable to provide the customer with the further redress he is now claiming.

Findings

It has been established that there were failures on the part of the company to provide its services to the standard to be reasonably expected by the average person.

Outcome

The company shall provide the customer with compensation in the sum of £250.00.

The customer must reply by 22 April 2019 to accept or reject this decision.

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- Following this, the company contacted the customer again as it had identified some sewer defects near his property. These were then repaired. In any event, the customer confirmed that the odours had now ceased.
- The company's position is that it will not be re-laying the customer's path as its works were not the cause of any issues with his pavement slabs.
- The company has offered the customer £250.00 in recognition of the issues experienced. However, the customer is not satisfied with this outcome and is seeking further compensation (in the sum of £2500.00), an apology, for the company to re-lay his path and clean up the site.

The company's response is that:

- It confirms that in November 2017, the customer contacted the company to report a bad sewer smell in his property. The company promptly attended the customer's property and carried out an inspection. At this time, it was found that water was holding in the manhole outside. Therefore, the company cleared this and left it running freely.
- In January 2018, the customer reported that the smell had returned. The company again attended the property and found sewage build-up on the benching and a partial blockage inside the manhole. The company therefore cleared the blockage and washed down the inside of the chamber with disinfectant. The company also delivered leaflets to the neighbouring properties advising what can and cannot be discarded down the drains.
- In May 2018, the customer reported that the smell had returned again. He also believed that the sewer might have collapsed because his paving slabs were sunken. The company attended the property and carried out a CCTV survey. This showed that there was a dropped joint which was causing the manhole to hold water (this in turn caused the sewer smells).
- The company therefore raised a job to repair this issue. However, due to an error, the repair was not carried out. The customer then contacted the company again in August 2018 to report that the smell had returned. The company then attended the property in September 2018, cleared a blockage from the manhole and carried out the repair that had been overlooked.
- In October 2018, the customer reported the smell again and also stated that he was unhappy with the mess left after the repair.
- The company therefore sent a representative from Amey (a company contract partner) to inspect the site. It confirmed blue marking paint and concrete left on the site. However, it concluded that there was no way the customer's paving slabs had sunken as a result of the works.

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- The company then carried out a smoke test at the customer's property and found that the manhole cover outside the property was not airtight, thus allowing smells to escape. This manhole cover was therefore replaced to resolve the issue.
- Subsequently, the company removed the concrete left at the property and agreed to clean the pavement slabs stained with blue marking paint and to replace the ones around the manhole. However, the uneven slabs would not be replaced as it had nothing to do with the work carried out by the company.
- The company confirms that on a follow-up visit it noted some minor defects 10 metres away from the property but this was completely unrelated to the repair work carried out at the customer's property. In any event, by this time, the customer confirmed that there were no smells at the property any more.
- In recognition of the issues experienced by the customer, the company offered the customer a goodwill payment of £250.00. The customer was unhappy with this sum and did not accept this offer.
- The company confirms that on 6 March 2019, it attended the customer's property to clean all the remaining blue paint off the customer's slabs and finalise its works.
- The company does not accept any further liability to the customer.

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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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 he has suffered stress and inconvenience in connection with the sewer smell issue at his property and the company's attempts to resolve this issue for him. The customer confirms that the company has offered him £250.00 in compensation for this issue as a gesture of goodwill. However, the customer does not feel that this is enough compensation and is seeking £2500.00, an apology, for the company to re-lay his path and clean up the site.
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. Following a review of the parties' respective submissions; I find it is common ground that the company attended the customer's property on numerous occasions in connection with the sewer smell issue. Based on the evidence provided, I am satisfied that, on each occasion, the company had taken reasonable steps to address the issue to the best of its ability. Whilst I appreciate that the various actions initially taken by the company did not permanently resolve the issue (and that this must have been frustrating for the customer), I find that it is fair and reasonable for a company to try various actions to resolve an issue using a process of elimination. Accordingly, I am not satisfied that the company's attempts to resolve the customer's sewer odour issue amount to a failure to provide its services to the standard to be reasonably expected by the average person.
4. Notwithstanding the above, I note that (due to an error) the company accepts it failed to follow up on a work order at the customer's property (until the customer contacted the company again in relation to the sewer odour issue). I am therefore satisfied that this amounts to a failure on part of the company to provide its services to the standard to be reasonably expected. Additionally, I note that company accepts that there was mess left on the customer's property following the company's works. I find that this also amounts to a failure on the part of the company.
5. I note the customer has asserted that the company's contactors displayed a dismissive attitude when they attended his property. Based on the evidence provided, I find that I am unable to objectively verify this assertion. I remind the parties that I am only able to base my findings on

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the evidence available. Under the present circumstances, on balance, I am not satisfied that the evidence available proves the customer's assertion in this regard.

6. I am mindful that the customer has also raised concerns in relation to his pavement slabs. Specifically, he noted that the slabs appear to be collapsing and he believes that this must be related to the company's works. However, I find no evidence that objectively substantiates this belief (for example, an engineer/surveyor/technician's report). To the contrary, I note that the company and its contractors have investigated this concern and expressly confirmed that the company's works could not have affected the customer's pavement slabs in this way. Accordingly, under the circumstances, I do not find that the company's refusal to re-lay the customer's sunken slabs amounts to a failure to provide its services to the standard to be reasonably expected by the average person.
7. It does not appear to be in dispute that the customer's sewer odour issue has now been resolved and I note from the company's submissions (supported by photographic evidence) that it has cleaned up the site, removed the blue paint markings and replaced the slabs surrounding the manhole. Therefore, in light of all the above, I find that the customer's outstanding claims for redress against the company are for further compensation in the sum of £2500.00 and an apology.
8. Based on the evidence available, I acknowledge that in December 2018 the company provided the customer with an apology for its failures (as shown in the email evidence provided). Under the circumstances, as this element of redress has already been provided, I find no reason to address this claim any further. Turning to the customer's compensation claim, taking into account the nature and extent of the company's established failures in relation to this matter (and the remedial steps it has already taken), I find that the company's compensation offer of £250.00 was fair and reasonable. I note that this finding is also supported by CCWater's (Consumer Council for Water) outcome statement which confirmed that the compensation sum offered by the company was in line with what would usually be expected for the types of failures established.

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9. Consequently, I am satisfied that failures on the part of the company have been established and I therefore direct that the company provides the customer with compensation in the sum of £250.00.

10. 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 redress through all other avenues as available to them.

Outcome

The company shall provide the customer with compensation in the sum of £250.00.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 22 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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