

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1293

Date of Decision: 23 May 2019

Complaint

The customer submits the company was slow to repair a leaking gully, resulting in extensive damage to her property. She claims compensation in the sum of £10,000.00 to cover the costs of repair and temporary accommodation.

Defence

The company denies liability. It is possible the leak to the gully contributed to damp in the customer's property; however, it has not acted negligently and therefore cannot be held liable. It fixed the leak quickly and the property was already affected by damp.

Findings

The company failed to provide its services to the standard to be reasonably expected. However, the customer has not justified her claim for compensation.

Outcome

The company does not need to take any further action.

The customer must reply by 20 June 2019 to accept or reject this decision.

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- The customer previously reported damp in April 2015. It is unclear if the customer ever managed to resolve the problem, or if in fact it has been a problem for a prolonged period of time.
- The customer's insurer believes the damp proof course failed, allowing water ingress to spread throughout the property causing extensive damage. The insurer refused the customer's claim because she failed to maintain an effective damp proof course that should have provided protection to the property.
- It paid for a third-party contractor to dry the property out for 27 days after it had completed repair works and found the levels of moisture in the property increased during this time.
- It has no liability for a leak from its sewers unless it has been negligent. It carried out repair works in a timely manner and there is no evidence it is liable for the extensive damage to the customer's property.
- It has offered various goodwill gestures to the customer and paid her £350.00 to cover her insurance excess.
- Other works it carried out in August should not have affected the customer's property.

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 company has provided call records which show the customer reported damp in her property in 2015. The company visited the property but found none of its assets could be the cause. I note its record of the visit says the customer has damp inside the property and there is evidence of damp on every external wall of the property.
2. The company has also provided a record of a call with the customer's insurer. The insurer says the damp proof course has failed on the customer's house, and this is progressive, on-going rising damp which is all throughout the property.
3. In light of the above, I am satisfied on a balance of probabilities that the customer's property has suffered from damp for a long period of time due to defects in the property for which the company is not responsible. Although the customer disputes this is the case, there is no substantive evidence to prove otherwise.
4. The company identified a leak in a gully next to the customer's property in April 2018. There is nothing to suggest the company should have known of this leak previously. The company accepts that this leak could have contributed to the damp within the customer's property until it was fixed in May 2018.
5. I note there is no substantive evidence to support the customer's assertion that the gully or other assets controlled by the company continued to contribute to damp in her property after May 2018.
6. I accept the company is not automatically at fault where there is a leak on its asset. However, I consider the company should fix a leak quickly and, unless it can prove the leak was caused by matters outside its control, it should usually remedy any damage caused by a leak.
7. There is no evidence to suggest the leak was caused by the actions of a third party or by something outside of the company's control. However, it appears the customer's property was damaged because she failed to maintain an effective damp proof course. I consider it neither fair

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nor reasonable to hold the company liable for damages that would not have arisen if the customer had maintained her property as reasonably expected.

8. In order for the customer's claim to succeed I must find the company failed to provide its services to the standard to be reasonably expected and, that as a result of that failing, the customer has suffered a loss.

9. Because a gully for which the company is responsible leaked, I find the company failed to provide its services to the standard to be reasonably expected. However, I find this failing would not have caused the customer any loss, if she had properly maintained her property. I therefore find the company's failing was not the cause of the losses suffered. Consequently, the customer's claim is unable to succeed.

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 20 June 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.

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Justine Mensa-Bonsu, LLB (Hons), PGDL (BVC)

Adjudicator

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