

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1296

Date of Decision: 17 April 2019

Complaint

The customer submits the company delayed in identifying that a leak came from his neighbour's private pipework, resulting in further water damage to his garden. He claims for the company to accept liability for the damage to his property and either carry out remedial work or pay for the costs of remedial work.

Defence

The company denies liability. It asserts the customer's claim for damage is a private matter between him and his neighbour.

Findings

The customer has not proven any failing by the company.

Outcome

The company does not need to take any further action.

The customer must reply by 21 May 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1296

Date of Decision: 17 April 2019

Party Details

Customers: []

Company: []

Case Outline

The customer's complaint is that:

- His garden was damaged by seepage and it took two years for the company to find that the source of the problem was a leak on his neighbour's private pipework.
- He believes the company should have identified the source of the leak sooner than it did.
- He wants the company to accept liability for the damage to his property and either carry out remedial work or pay the costs of remedial work.
- In his comments he reiterates the company should have found the leak sooner.

The company's response is that:

- When a customer reports a leak it will investigate to see if its own assets are the cause and if so, take action to rectify this. It does not have any liability if the leak is on private pipework.
- If the customer is alleging it is negligent this is a complicated issue of law that should be resolved through the courts.
- It has outlined investigations undertaken since 2015. At every stage it was satisfied the seepage was not from its own assets, though it assured the customer if this was found to be the case it would consider a claim for compensation.

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- In 2018 it found the seepage was caused due to a leak on a neighbour's private supply pipe. The customer requested the company pay compensation for the damage to his garden; however, it refused as this was a private matter between him and his neighbour.
- It has provided the customer £1700.00 as a goodwill gesture for the delay in discounting its own assets as the cause of the problem.
- It denies liability for the customer's claim.

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?

1. The company submits it is responsible for investigating whether its own assets are the cause of any leak or seepage on a customer's property. If the company's assets are the cause of the problem then the company is also responsible for the costs of the remedy. I accept this to be the case.
2. It is clear it took a number of years of investigations for the company to identify the seepage in the customer's garden was caused by a leak on his neighbour's private pipework. I cannot say the company should have been able to identify this sooner, as there is no substantive evidence to support this. In any event, I find its goodwill payments totalling £1700.00 satisfactorily

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compensated the customer for any aggravation arising from the delay. I consider the company acted reasonably in making this goodwill payment.

3. As to the damage to the customer's garden, both parties accept that the leak was on private pipework. This means the company is not responsible for any damage caused by the leak, whether it delayed in locating the source or not. Rather, I accept the company's submission that any claim for damages is a private matter between the customer and his neighbour.
4. I do not find the company is responsible for the damage to the customer's property or for the costs of remedial work. The company was entitled to refuse the customer's claim for compensation and therefore I do not accept it failed to provide its services to the standard to be reasonably expected. 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 21 May 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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