

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1310

Date of Decision: 15 April 2019

Complaint

The customer complains about the quality of reinstatement works carried out by the company to her driveway. She asserts that there is now a dip where water pools when it rains. Prior to the company's works, she never had an issue with this and mud entering her home. The customer also submits that the company failed to call her back despite promising to. The customer requests that the company re-lay her brickwork driveway so rainwater does not puddle in it.

Defence

The company confirms that it excavated a part of the customer's driveway due to its Victorian Mains Replacement program but it denies that the driveway was not returned to the same condition. It contends that reinstatement works returned the driveway to the same condition as before; photos taken pre-works show there was an existing depression to the driveway. It accepts there was a delay in providing a call back to the customer; however, it feels the £60.00 gesture already provided is sufficient recompense. The company made no settlement offer.

Findings

The photographic evidence supplied by the company proves that the dip in the customer's driveway was pre-existing and not due to sub-standard work carried out by the company when reinstating the customer's driveway, following its work to replace pipes in her road. As no failing by the company has been shown in this regard, it is not liable to re-lay the customer's driveway. The considerable delay in calling the customer back as promised, is evidence of the company failing to provide its service to a reasonably expected standard. However, the compensation amount already paid to the customer is fair and sufficient.

Outcome

The company is not required to taken any further.

The customer must reply by 15 May 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1310

Date of Decision: 15 April 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The company's contractors dug up her driveway whilst carrying work in her road and she is unhappy about its reinstatement of her brick driveway. She asserts that there is now a dip where water pools on her driveway when it rains. Prior to the company's works, she never had an issue with this and mud entering her home. Therefore, this has had a negative affect.
- She is also unhappy with the customer service received from the company in November 2018 when the works were being completed in the vicinity of her home. The company did not return her call despite promising to and she became increasingly unhappy about this as the company was on site completing the actual work at the time.
- Additionally, the brickwork is not identical to how it was before the works; the customer asserts that some of the original bricks were carelessly thrown in the hole that was dug up and when this was pointed out to the workers, the customer submits: "they just had a laugh and used bricks of different colour".
- The customer requests that the company re-lay her brickwork driveway (as per the original pattern) so rainwater does not puddle in it.

The company's response is that:

- It confirms that whilst carrying out its Victorian Mains Replacement (VMR) in the customer's road, it needed to excavate part of her driveway. In October 2018, it provided notice of the works planned for between 5 and the end of the November 2018. After it had finished its works

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(started on 6 November 2018), the customer's driveway was reinstated to the condition it was previously.

- It disputes the claim that it has not carried out an effective reinstatement. Prior to excavating the road outside the customer's home, it took a photograph of her driveway. It is clear from this picture that there is a depression on the left-hand side of the block paved section of the driveway. You can also see that the depressed section has a patch of mud settled. In the picture provided by the customer, taken from her window on a rainy day it shows standing water/rainwater. The company asserts it has supplied the same image as evidence with a red line added to show the location its contractors excavated up to. This shows that the depression is present to the section of bricked driveway it did not disturb. Three further images from the internet shows the customer's driveway over the year; even though these were taken on a dry day, you can clearly see the left-hand side as being dirty, surface/rain water was settling in this location on a rainy day, just as is the case now.
- It received a call from the customer on 21 November 2018 who advised she was unhappy with the reinstatement of her driveway and its agent advised they would arrange for a manager to call her back within 24 hours.
- The customer called on 23 November 2018 reiterating that she was unhappy with the reinstatement of her driveway. She emailed a picture of her driveway later the same day.
- After looking into this matter, a case manager from its Customer Relations team called the customer on 30 November 2018. On this call it was explained that it felt from the picture taken before its works and the picture the customer had included with her email, the condition of her driveway had remained the same. It was for this reason it could not uphold her complaint. The case manager advised it would confirm its position on this matter in writing no later than 6 December 2018.
- On 4 December 2018, its Customer Correspondence Manager, wrote to the customer confirming its decision on her complaint.
- It received a call from the Consumer Council of Water (CCW) on 27 December 2018 requesting information relation to the customer's complaint and a referral of the complaint later that day.
- On 15 January 2019, a Senior Case Manager responded to CCW directly by email.
- On 21 January 2019, a site meeting was arranged for its contractors who carried out the reinstatement and a supervisor for the area, to attend. On 22 January 2019, the site meeting went ahead and the customer's concerns were noted and the supervisor in attendance took pictures and advised the customer that he would report back to his manager and advise of the final outcome.

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- On 13 February 2019, an email was sent to the customer by the Senior Case Manager handling this matter. Its email confirmed it would not be carrying out another reinstatement of the customer's driveway. It has fully explained to both the customer and CCW for reason for this.
- However, it sent the customer a cheque for £60.00 to say sorry for not calling her back when it had promised to by 22 November 2018. The customer confirmed receipt of the cheque on 23 January 2019. It believes this part of the customer's complaint has been satisfied fairly and it has no further comment to make.
- In regards to the comments in the application about the brickwork not being identical, this point has not previously been raised to it either by the customer or CCW. As such, it has not had an opportunity to answer therefore the company contends this cannot be adjudicated upon. It asserts that the customer should raise his point separately to it by calling the Senior Case Manager, [], who was previously handling the case for her, on telephone number 0800 009[] and she will be happy to review this.

Reply

- The customer has submitted a copy of the Defence with her annotations through which she reiterates points of the claim and also disputes aspects of the Defence. The customer submits that the company's notice provided did not make clear that work would include an excavation of her driveway. She disputes the company's submission that she has not previously raised the issue of the mismatched brickwork; this was discussed during the site visit of 22 January 2019. She also reiterates that the dip in the driveway was not present prior to November 2018.
- The company supplied comments on the customer's Reply and evidence to support its stated position that the claim regarding the mismatched bricks has not previously been raised.

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

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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 dispute relates to the standard of reinstatement works carried out by the company to the customer's driveway following its work undertaken to replace old Victorian mains and pipes in the customer's road, that necessitated excavation of a part of the customer's driveway. The customer has also raised a complaint regarding the standard of customer service provided by the company in relation to her complaint raised.
2. In relation to the claim made in the customer's WATRS application that the brickwork is mismatched (different colour paving blocks), the company contends that due to this point having not been previously been raised, it falls outside the scope of this adjudication. I have reviewed all of the evidence, and I can find no mention of this specific complaint, in any of the correspondence between the parties (including the complaints made by CCW on behalf of the customer) or the company's internal email trail between the Senior Case Manager dealing with the case ([]), and its representative who visited the site on 22 January 2019, as submitted by the company. As such, on balance, I accept the company's contention that this specific point has not been previously been raised. Therefore in accordance with Scheme Rule 2.4, I find that this element of the claim falls outside the scope of this adjudication. The company has advised the customer she can call the Senior Case Manager, who was previously handling the case on telephone number 0800 009[] for this complaint to be reviewed. As such, I will not address this matter further. In addition, in accordance with Scheme Rule 5.4.3, I am unable to consider the customer's point raised in the Reply regarding the company's notice of the works not being clear about excavating, as I find this constitutes 'a new matter' as it was not raised in the claim.
3. In respect of the customer's claim that the company failed to call her back when agreed, I accept from the evidence that the company did not adhere to its promise made to the customer on 21 November 2018 that a manager would call her back within 24 hours. I acknowledge that the customer had called in regards to the quality of the reinstatement of

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her driveway and that the company was on site during this timeframe. The company did not provide the said call back until 30 November 2018 after the customer had called the company again on 23 November 2018, and sent an email, chasing a response. I accept this delay would have caused the customer stress and inconvenience. The company admits this was a service shortfall; however, it asserts that it has already sent the customer a cheque for £60.00 to say sorry for the service provided in this regard. I am satisfied that the remedy already provided to the customer, namely the £60.00 cheque, is fair and proportionate to the company's admitted failure.

4. In relation to standard of the reinstatement of the driveway carried out by the company following its excavation works, I acknowledge receipt of photographs provided by customer consisting of six images of the driveway post work and one image of the driveway pre-work. The company has also submitted a photo taken prior to the work beginning on 6 November 2018 and three images of the driveway from the internet dated 2011 and 2012 and February 2018, as well as the image supplied by the customer with a red line added by the company to show the location of its work (from the end of the driveway up to the ATPLAS box and one course of brick past the ATPLAS box). I accept from the photographic evidence of the driveway, post work, as supplied by the parties that there is a puddle of rain/water on the left-hand side of a section of the driveway; I accept this waterlogged area is due to an uneven surface and the angle of brickwork. However, I find that the photographs showing the driveway pre-works indicate the same dip existed prior to the work. Whilst these photographs supplied do not show a puddle, it is clear these photographs were not taken on a rainy day. The company has highlighted, however, that they show the same area of the driveway, as having dirt/sediment deposited consistent with water having collected there. Having examined the photographs, I accept this. I am also mindful that the red line added by company to one of photographs, marks exactly where its excavations began and I am satisfied this shows that the uneven surface and more sunken angle of the brickwork begins on the section of the driveway which was not excavated by the company. As such, I find the company's reinstatement works followed the same angle of the driveway to meet the untouched part of the driveway.
5. Therefore, based on the photographic evidence, I am not satisfied that the dip in the customer's driveway is due to any sub-standard reinstatement work by the company as it was pre-existing. As such, it has not been shown that the service provided by the company fell below a reasonably expected standard. As above, the company's failure to call the

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customer within the timeframe promised or within a reasonable timeframe, is evidence of it failing to provide its service to a reasonably expected standard. However, I am satisfied that the cheque for £60.00 already sent to the customer, is a fair amount and proportionate to the company's proven shortfall in the standard of service provided to the customer in this instance. Therefore, the customer's claim does not succeed.

Outcome

The company is not required to taken any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 15 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.



A. Jennings-Mitchell, Ba (Hons), DipLaw, PgDip (Legal Practice), MCIArb
Adjudicator

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