

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1328

Date of Decision: 8 July 2019

Complaint

The customer states that he was misled by the company into believing that the installation of his water meter was part of a trial, rather than part of a compulsory metering programme. He requests that the company apologise and pay compensation of £166.63.

Defence

The company states that the customer was accurately informed that his new meter was part of a compulsory metering programme, and not part of a trial.

No offer of settlement has been made.

Findings

The customer has not established that the company failed to provide its services to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 5 August 2019 to accept or reject this decision.

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Date of Decision: 8 July 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company has installed a water meter at his property.
- He was misleadingly told that the meter was being installed for a two-year trial period, rather than it being compulsory.
- The company did not mention that it needed his permission to enter his property and install its equipment.
- Had he known the true nature of the installation he would have refused his permission.
- The customer requests that the company apologise for misinforming him that the installation was only a trial and that it pay compensation of £166.63.

The company's response is that:

- On 24 March 2011, the customer requested a water meter as part of a programme that allowed him to return to rateable value payments if he was unhappy with the use of a meter.
- On 22 March 2012, the customer chose to return to rateable value payments.
- On 11 October 2016, a meter was installed at the customer's property under a new compulsory metering programme.
- On 22 November 2016, the company wrote to the customer to inform him that his smart meter had been activated and a two-year transitional period begun. During this transitional period he would be sent a bill notifying him of both his regular charge and what he would have been charged using a meter. If he chose to switch to a meter within the first 12 months of the

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transitional period, his account would be credited with savings he would have made from the use of a meter in that period.

- On 12 December 2018, the company wrote to the customer to notify him that his two year comparison had ended, and that as a result all future bills would be based on the meter.
- The customer was accurately informed that his new meter was part of a compulsory metering programme, and not part of a trial.

The customer's comments on the company's response are that:

- He has no objection to compulsory metering itself, but only to the way the company has gone about it.
- He does not see how the programme can be compulsory if not everyone is having a meter installed at the same time.
- He questions the accuracy of some of the water meter readings he has received.

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 dispute between the parties centres on what the customer believes has been an unacceptable approach by the company to the performance of its compulsory metering programme. The customer has emphasised that he has no objection to the compulsory metering programme itself, but only to what he regards as having been misinformation provided by the company regarding the programme and a broader lack of openness on the company's part.
2. The customer has been consistent in his statements that he understood the use of a water meter to have been undertaken on a trial basis, and I find no reason not to accept the customer's statements in this respect. However, the customer's claim rests not on the honesty of his belief that the water meter was installed as part of a trial, but on the existence of evidence that he was either inaccurately informed by the company that it was a trial or that the company negligently or otherwise wrongfully misled him into this belief.
3. In short, the customer may have had a genuine but mistaken belief that the installation of a water meter was part of a trial, and may have acted on the basis of that belief, but the company would not be liable for the consequences of the customer's actions if it did not misleadingly or otherwise wrongfully cause the customer to have that mistaken belief. Sometimes misunderstandings happen through no fault of either party involved.
4. In the present case, while the customer has stated that he was told by the company prior to the installation of the meter that this would be a trial, rather than compulsory, no evidence has been produced of any such statement, whether in the form of documentation from the company including such a statement or even just contemporaneous documentation or communications from the customer referring to such a statement.
5. On the other hand, the company has produced documentation that was sent to the customer at the time of the installation of the meter that explicitly refers to the meter as being installed as part of a compulsory metering programme, rather than as part of a trial.
6. In many disputes, the evidence as to precisely what happened will be to some degree unclear, and the law addresses this uncertainty through what has come to be known as the "balance of probabilities" test. Under this test, the decision-maker must look at the evidence provided by the

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parties, and decide what is most likely to have happened based on that evidence. Importantly, this decision is only based on the evidence provided by the parties, and so is made with full knowledge that the evidence provided may in some way be misleading, or that there may be additional evidence that would justify a different conclusion. However, as a decision must be made, it must be made based on the evidence actually provided, not on the decision-maker's unsupported speculations regarding what may or may not have happened.

7. In the present case, while I accept the honesty of the customer's statement that he understood the installation of the meter to be part of a trial, no evidence has been produced from which I could justifiably conclude that the customer was negligently or otherwise wrongfully led to this belief by the company.
8. I find, therefore, on the balance of the evidence available to me, that while the customer did genuinely believe that the installation of the water meter was part of a trial, this was simply a misunderstanding by the customer, reached through no fault of the company.
9. As a result, while decisions taken by the customer with respect to the meter, including whether to allow the company onto his property and whether to accept the company's offer of moving to a metered bill prior to the expiry of the two-year transition period, were decisions taken on the basis of a misunderstanding, the company is not liable for the consequences of those decisions as it did not negligently or otherwise wrongfully lead the customer into that misunderstanding.
10. The customer has also questioned whether the company can accurately state that the metering programme is compulsory if not all customers are receiving meters at the same time. However, there is nothing inconsistent between a metering programme being compulsory and the company rolling meter installation out over time in order to make the programme more logistically manageable.
11. The customer also questions the accuracy of some of his bills based on the meter. However, no evidence has been provided from which it could be concluded that the meter has been reading inaccurately, and the customer was not billed on the basis of the readings he questions as he was at that time still in the transition period. The customer does, of course, retain the right to challenge any ongoing readings that he does not believe are accurate.
12. Consequently, the customer's claim does not succeed.

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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 5 August 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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Tony Cole, FCI Arb

Adjudicator

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