

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1385

Date of Decision: 23 May 2019

Complaint

The customer has a dispute with the company regarding the entering of negative Default markers on his credit history record. The customer advises that he is the landlord of several rental properties and the negative entries are having a detrimental effect on his business. The customer believes the company's action is disproportionate to the low value of the outstanding charges, that he has a record of prompt payment, and that he believed he was no longer responsible for payment of the final account bills after he advised the company of tenancy changes at two properties. The customer claims for the company to remove the Default notices from his credit history.

Defence

The company states that it has acted in compliance with its debt management procedures, and the Default marks have been entered correctly on the customer's record. It asserts it made efforts to contact the customer at the time the bills were raised but had no success as he had not advised it of any forwarding address. The company has not made any offer of settlement to the customer and declines to remove the Default marks.

Findings

The company acted correctly in placing the Default markers on the customer's credit history and is not obliged to remove them at the customer's request. I find the customer retained responsibility to pay charges on the two properties in question up to the time he officially advised the company of change in tenancy arrangements, that he prematurely cancelled Direct Debit mandates, and left no forwarding address for receipt of correspondence. Consequently, I find that the company has not failed to provide its services to the extent to be reasonably expected by the average person.

Outcome

The company does not need to take further action.

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

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /11385

Date of Decision: 23 May 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- He has experienced an ongoing dispute with the company regarding two negative credit markers it has placed on his credit reference file and declines to remove them despite his request. Following ongoing communications with the company and the involvement of CCWater the dispute has not been settled.
- The customer states that he operates a small business whereby he rents out several properties. He asserts that in June 2016 he attempted to contact the company to advise them of a change in the tenancy at two of the properties and that the new tenants would be responsible for payment of water and sewage charges to the company. At that time the customer states he cancelled the Direct Debit mandates for the payments to the company at the two properties.
- The customer further claims that he was not successful in his attempts to contact the company in June and it was only in August 2016 that he was able to amend the details online. The customer asserts that from that time he was unaware that the bills for the months of June and July 2016 for both properties had not been paid. The customer states that he is disappointed that the company did not attempt to contact him at his home address rather than communicating with the two rental properties, and that he believes the company could also have communicated with him on his registered e-mail contact address.

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- The customer asserts that he only became aware of the outstanding bills in January 2019 when a mortgage application was rejected due to two negative entries on his credit record. The customer immediately contacted the company and promptly paid the two outstanding bills in the amounts of £63.37 and £82.04. The customer claims that when he contacted the company he was informed that after paying the outstanding amounts the negative references would be removed from his credit history.
- The customer asserts that the company's decision to place negative marks on his credit history file is disproportionate as the two outstanding amounts are not large and he has a good history of payment to the company in respect of all his rental properties and has always previously advised them timeously of changes to tenants at the properties.
- On or around 05 February 2019, the customer escalated his complaint to CCWater who investigated the issues with the company on his behalf. Despite the intervention of CCWater, the dispute is ongoing and the company has not revised its standpoint.
- Consequently, the customer, on or around 15 April 2019, has referred the matter to the WATRS Scheme whereby he seeks to have the company remove the negative markers from his credit history record.

The company's response is that:

- The company in its defence paper dated 03 May 2019 confirms that the customer had previously paid the applicable charges by Direct Debit in respect of the two properties, one from 01 July 2014 and the other from 06 July 2015. It further confirms that in June 2016 it was advised by the customer's bank that the Direct Debit mandates had been cancelled.
- The company notes that on 13 June 2016 the customer set up online new Direct Debit mandates in respect of the two properties, but that it was unable to collect against the mandates as the customer had not informed his bank.
- The company asserts that on 19 August 2016 the customer updated the records for the two properties informing it of the new tenants but he did not register a forwarding address and thus the bills for the months of June and July 2016 could only be sent to the individual properties. The company further asserts it made numerous subsequent attempts to contact the customer but without success and as the bills remained outstanding the negative Default remarks were entered on his credit history file.

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- The company claims that after failing to contact the customer or receiving any payments it made routine searches, including checking the Land Registry. Subsequently, in October 2018, it became aware that the two properties were rented and it identified the customer as the owner and sent the outstanding bills to his home address.
- The company confirms that on 22 January 2019 the customer contacted it and paid the two outstanding bills, and the company entered the payments on the credit history file and recorded no amounts were outstanding. The company insists that the negative credit history remarks were correctly placed on the customer's file and it would amount to falsifying information if it removed them.
- In respect of the customer's assertion that the company should have been able to link his ownership of the two properties in default to his own private residence, the company asserts that it cannot make such links unless requested by a customer. Making such linkage without the customer's permission is a breach of the Data Protection Act. The company also denies the customer's claim that he was advised by a company representative that the Default markers would be removed from his credit record once he had paid the outstanding amounts.
- The company notes the request from CCWater to have it consider the customer's record of dealing with it, and recognises that the customer has previously held a good record in regard to payments on all properties in his portfolio and also in respect of advising change of tenants. However, the customer's failure to promptly update the occupier details on the two properties in question and his failure to advise a forwarding address meant that two months of bills went unpaid on two properties for which the customer was liable for payment of charges. Thus, it believes the negative Default markers were correctly entered on the customer's credit history record.
- In conclusion, the company states it has rightly entered the Default marks after correctly following the procedures and declines to remove them from the customer's credit history file.

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

- The customer has responded to the company's Defence paper and noted the company's letters to him at his home address did not mention placing a negative default notice on his credit record only that it would pass the unpaid accounts to a debt collection agency. He claims that the company should have contacted him again at his home address to allow him to pay the bills. The customer further states that he only cancelled the Direct Debit mandates after he ceased to

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be responsible for the accounts at the two properties in question, and consequently he would not have expected to receive a final account as claimed by the company.

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 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 customer's dissatisfaction that the company has entered two negative Default marks on his credit history record, and despite his request the company declines to remove the two entries. Consequently, the customer has submitted his dispute to the WATRS Scheme whereby he claims for the company to be directed to remove the negative marks from his credit history. The company asserts it has acted reasonably throughout, that the two negative marks were correctly entered onto the customer's credit history after it followed the accepted procedures, and thus it declines to remove the entries.
2. I note that the WATRS adjudication scheme is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
3. From the evidence submitted to me I am satisfied that the customer is the owner of the two properties in question, (at [], and []) and had opened an account with the

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company as from 01 July 2014 for the former and 06 July 2015 for the latter. I am further satisfied that the customer paid by Direct Debit mandates the charges due to the company in respect of the two properties until June 2016 at which time he cancelled the mandates as he believed he was no longer responsible for payment of the company's charges raised on the properties.

4. The customer has confirmed that there were changes to the tenancy details of the two referenced properties in June 2016 and states that he attempted unsuccessfully to update his records held with the company as he was unable to access its website. He asserts that he contacted the company on 01 July 2016 by telephone and advised them of the changes, but he does not submit any evidence to support this claim and the company make no reference to this telephone contact in its Defence.
5. The customer further confirms that as he was not able to contact the company in June 2016 he cancelled the Direct Debit mandates in favour of the company regarding payments in respect of the two referenced properties. He additionally states that in July 2016 he attempted to set up new Direct Debit mandates but was unsuccessful, while the company asserts that the new mandates never became operable due to the customer not advising his bank correctly.
6. The parties agree that on 19 August 2016 the customer submitted the appropriate forms to advise the company of the change in tenancy details at the two properties but the company asserts no forwarding address was provided by the customer.
7. Upon receipt of the changed tenancy forms the company claims it produced final account bills for the two properties but the lack of forwarding address meant it sent the bills direct to the properties. These two final bills were not paid until January 2019.
8. I have referred myself to the Welsh Governments Guidance Document entitled "*Non-statutory guidance in relation to the Water Industry (Undertakers Wholly or Mainly in Wales) (Information about Non-owner Occupiers) Regulations 2014*". The Water Service Act 1991 as amended by the Flood and Water Management Act 2010, requires, as from 01 January 2015, that landlords are obliged to inform water companies of changes in occupiers of rented properties within 21 days of such changes. Failure to meet the 21-day deadline renders the landlord jointly and severally liable for payment of all charges during the period of non-compliance with the regulations.
9. It is not disputed by the parties that the 21-day deadline was not complied with in this case. Thus, I find that the customer remained responsible for payment of all charges raised against the two referenced properties up to 19 August 2016. I further find that the customer cancelled

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the applicable Direct Debit mandates on the properties knowing that he had not officially informed the company of the tenancy changes.

10. Regarding the customer's claim that the act of cancelling the Direct Debit mandates meant he no longer wanted the company's services, I do not find that this can be construed as an instruction to the company of a change in tenancy. Additionally, I note that the customer states he could not access the applicable company webpage in June 2016 to advise of the tenancy change but the company allows notification also by letter or telephone. Thus, I find no failure by the company in its duty of care to manage the account with a reasonable level of skill and care.
11. The customer states that he is disappointed that the company placed the negative remarks on his credit history record as the amounts of £63.37 and £82.04 are not excessive, he has a record of prompt payment of previous charges to the company, and that he paid the two outstanding bills as soon as he became aware of them. Whilst I have sympathy for the position of the customer I find that the facts are not disputable, -- (i)he remained responsible for the accounts until 19 August 2016, (ii)he cancelled the applicable Direct Debit mandates prior to notifying the company of the tenancy changes, (iii) he did not advise the company of a forwarding address when changing the details, and (iv) the final accounts remained unpaid for a period of approximately 28 months. Thus, I find that the company acted in compliance with its stated debt management and recovery procedures and correctly entered the Default notes on the customer's credit history record. Additionally, I find that when the outstanding bills were settled it correctly entered the payments on the credit history as Settled, and it follows that I agree that removing the Default notices may be construed as falsifying data in terms of the Steering Committee on Reciprocity rules.
12. Overall I find that the company has not failed in its duty of care to manage the customer's account with a reasonable level of skill and care, and that the level of customer service has been of an acceptable standard. I further find that the company correctly followed its debt management procedures and the entering of the negative Default remarks on the customer's credit history was neither incorrect nor unreasonable. Therefore, on balance, I find that the customer has not provided sufficient evidence to justify the claim and thus I shall not direct the company to remove the Default entries from his credit history file as claimed.
13. My conclusion on the main issues is that the company has not failed to provide its services to a standard to be reasonably expected by the average person. Therefore, my decision is that the claim does not succeed.

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Outcome

The company does not need to take further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 21 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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Peter R Sansom
MSc(Law); FCI Arb; FA Arb; Member London Court of International Arbitration;
Adjudicator

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