

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1407

Date of Decision: 23 May 2019

Complaint

The customer submits that a complaint was first raised with the company in June 2017 in relation to a high bill. A leak was suspected. It hired a plumber and contacted its insurers who investigated. It was determined that the leak was on the water company's pipework. The property is student accommodation. RST Water (RST), the wholesaler, has deemed the dwelling to be a commercial property without its consent and is only willing to provide a refund against the sewerage element as a result of this. The company failed to log the complaint correctly. On 6 January 2019, RST repaired another leak on the pipework to the property without its consent. It asked the RST engineer for a copy of the report for its records. However, a report has never been received. In addition, it was not until 22 March 2019, that it was discovered that RST had repaired a leak on its asset that would not have impacted on the consumption at the property and that it has been instructed to get another plumber to investigate possible leaks on the private supply. The customer requests clarification from the company as to where the leak was discovered during the repair in January 2019, and an explanation as to why it was not initially informed of the possibility that the leak was private until CCW chased in March 2019. The customer also requests an apology; a full allowance for the water lost via the leak; and compensation in the sum total of £12,500.00.

Defence

The company submits that RST has declined to give a water allowance as its policy states that a water allowance is only given if a domestic element is affected. Whilst the customer remains dissatisfied with the level of allowance that has been granted by RST, as its water retailer, it has challenged this decision on behalf of the customer on numerous occasions and fulfilled its responsibilities. It has identified several customer service failings that it is responsible for and awarded £20.00 for each of these, totalling £100.00.

Findings

The company and RST are separate entities. This adjudication can only consider the duty owed by the company to its customers. It falls outside of my remit to consider any claims or complaints against RST. No evidence has been submitted to this adjudication to show that the leak repaired in June 2017 was determined to be on the water company's pipework. RST is responsible for granting any leak allowances. The company's duty is to contact the wholesaler and raise claims/queries on the customer's behalf. The evidence also confirms

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that under RST 's policy a water allowance is only given if a domestic property is affected. It is not within my remit under this adjudication to determine whether the property should be deemed to be a residential property. The evidence supports the company's submission that it queried RST 's decision on behalf of the customer on numerous occasions, but the wholesaler declined to change its stance on the matter. The evidence shows that the company has fulfilled its obligation in this regard. However, it is not clear that the company met its obligations to the customer in relation to complaints raised from January 2019. The company itself also accepts that there were a number of customer service failings on its part during the period of the complaint.

Outcome

The company needs to take the following further action:

(1) Contact the wholesaler and provide the customer with clarification as to where the leak was discovered during the repair in January 2019, and an explanation as to why it was not initially informed of the possibility that the leak was private until CCW chased in March 2019, if it is able to do so; (2) Pay the customer a further £200.00 compensation; (3) Provide the customer with a written apology.

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

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1407

Date of Decision: 23 May 2019

Party Details

Customer: []

Customer's Representative: []

Company:[].

Case Outline

The customer's complaint is that:

- A complaint was first raised with the company in June 2017 in relation to a high bill. A leak was suspected. It hired a plumber and contacted its insurers who investigated. It was determined that the leak was on the water company's pipework.
- It was advised that as the property is student accommodation and deemed to be a Non-Household (NHH), it was not eligible to claim an allowance against the water lost through a leak. The company was only willing to provide a refund against the sewerage element. However, the property is a residential student dwelling with two communal areas and 16 bedrooms all with en-suite facilities.
- The property has been deemed to be a commercial property as its student tenancy agreements are 50 weeks with the option to continue over 52 weeks. It runs the contract over a 50 week period so that the turnaround for students can run with ease – with a two week turnaround for cleaning and maintenance. RST Water (RST), the wholesaler, deemed the dwelling to be a commercial property without its consent.
- OFWAT has deemed that the premises do meet the criteria for market reform and therefore confirmed it to be a NHH property.
- The dispute had been ongoing for over a year before it was able to take the matter to the Consumer Council for Water (CCW). When it did eventually log the complaint with CCW, it had to go back to the company to give it another opportunity to resolve the matter as the company

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had failed to correctly log the complaint – the company had provided it with a reference number and not a complaint number despite advising it that a complaint had been logged.

- On 6 January 2019, RST repaired a leak on the pipework to the property in the pavement and in the property. This was done without its consent. An engineer advised that the company had had to wait for someone leaving the premises in order to gain access to the building. After the engineer had completed the works, he also asked that it check the property for additional leaks/faults. This was completed the following week. No further faults were found so there was no requirement for its plumber to complete a report.
- It had asked the RST engineer for a copy of the report for its records. The engineer advised that he would get someone from admin to send it over. However, a report has never been received.
- It was not until 22 March 2019, that it was discovered the RST had repaired a leak on its asset that would not have impacted on the consumption at the property and the customer should be instructed to get another plumber to investigate possible leaks on the private supply. The company contends that there is a still a private leak present. However, it has explained that the plumber has not been able to detect a leak.
- Neither the company nor RST will offer any further allowance or goodwill gesture for the length of the delay or the poor information given to it, which has caused the matter to be become protracted.
- The customer requests clarification from the company as to where the leak was discovered during the repair in January 2019, and an explanation as to why it was not initially informed of the possibility that the leak was private until CCW chased in March 2019. The customer also requests an apology; a full allowance for the water lost via the leak; and compensation in the sum total of £12,500.00 comprising of £10,000.00 for a water and sewerage allowance and £2,500.00 for “time, material distress, resource and inconvenience”.

The company’s response is that:

- On 25 July 2017 RST granted the customer an allowance of £107.29. The customer requested a review of the allowance as it felt that the allowance was not enough. Following a review on 4 October 2017, a further allowance of £550.88 was applied. However, the customer still remained dissatisfied with the amount of the allowance given.
- RST has declined to give a water allowance as its policy states that a water allowance is only given if a domestic element is affected. It has requested that RST reconsider the property’s classification. As the property is used for student accommodation rather than a domestic

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dwelling that is used 52 weeks a year, the wholesaler deems this as commercial and it must adhere to the wholesaler's decision in these cases.

- Whilst the customer remains dissatisfied with the level of allowance that has been granted by RST, as its water retailer, it has fulfilled its responsibilities and challenged this decision on behalf of the customer on numerous occasions.
- It has identified several failings that it is responsible for and awarded £20.00 for each of these, totalling £100.00. It feels that this is fair and adequate compensation for the retail element of this complaint. The award has been made for the incorrect allowance being applied; the two months it took for it to review the allowance and rectify the error; incorrectly advising that a complaint had been logged on the account; the complaint activity being incorrectly categorised on the account; and providing incorrect information following an enquiry from CCW.
- Following the application of the £100.00 gesture of goodwill, the outstanding balance on this account is £11,076.51, this is due and payable.

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. I must remind the parties that adjudication is an evidence-based process.
2. 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.
3. It is almost inevitable in such adjudications that conflicts of evidence arise, and the mere fact that the adjudicator finds in favour of one party on a particular issue does not mean that the other is telling an untruth. The adjudicator's role is to balance the evidence that is presented.

Wholesaler and Retailer

4. In April 2017 the water market in England opened up to retailers and all non-household customers were moved to a retail/wholesale structured service.
5. The evidence shows that the company is the retailer and RST is the wholesaler. Retail companies and wholesale companies are separate entities. The customer has a contractual relationship with the retailer only. Under the Water Redress Scheme, a customer can only make a complaint against the company with whom they have a contractual relationship with; that is, the retailer. Therefore, for the purposes of this decision, my remit is to determine the issues between the customer and the company.
6. This adjudication can only consider the duty owed by the company to its customers. The company's duty is to contact the wholesaler and raise any claims or query any decisions on the customer's behalf.
7. It falls outside of my remit to consider any claims or complaints against RST.

Leak repaired in June 2017 and Leakage allowance

8. I acknowledge the customer's submissions that the leak repaired in June 2017 was determined to be on the water company's pipework. However, no evidence has been submitted to this adjudication to support this.

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9. The evidence shows that RST, and not the company, is responsible for granting any leakage/sewerage allowances. The company's duty is to contact RST and raise the claim for an allowance on the customer's behalf.
10. The evidence also confirms that under RST's policy, the wholesaler will only offer NHH customers an allowance against the sewerage if the leak was on the private underground supply, as long as the water did not return to the sewer. A water allowance is only given if a domestic property is affected. In correspondence to the company, RST states that it would not class the customer's property as domestic as it is run as a business.
11. I acknowledge the customer's submissions that the property is a residential and should not be deemed to be a commercial property. However, it is not within my remit under this adjudication to determine whether the property should be deemed to be a residential property.
12. The evidence supports the company's submission that it queried RST 's decision on behalf of the customer on at least three occasions, but the wholesaler declined to change its stance on the matter.
13. I acknowledge the customer's claim and I can appreciate the customer's distress at receiving a much larger than normal bill. However, any complaints against RST cannot be considered under this adjudication. The company's duty is to contact the wholesaler and liaise on behalf of the customer, and the evidence shows that the company has fulfilled this obligation. I therefore find that the company has not failed to provide its services to the standard to be expected in this regard.

Leak repaired in January 2019

14. The customer submits that on 6 January 2019, RST repaired a leak on the pipework and entered its property without its consent; that it asked the RST engineer for a copy of its report, but this has never been received; and that it was not until 22 March 2019, that it was discovered that RST had repaired a leak on its asset that would not have impacted on the consumption at the property. The evidence indicates that the customer raised these complaints to company via the Consumer Council for Water (CCW) during the complaints process. However, it is not clear that the company addressed these issues and raised queries to RST on the customer's behalf.

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15. I am also particularly mindful that the company does not address or refute these issues in its Defence to WATRS and has not provided any correspondence beyond December 2018 with its submissions. Having carefully considered the matter, in the absence of any evidence from the company showing otherwise, I am not satisfied that the company has shown that it met its obligations to the customer in relation to complaints raised from January 2019.

Customer service failings

16. The company itself accepts that there were a number of failings on its part during the period of the complaint. The company acknowledges that an incorrect allowance was applied; it unreasonably delayed in reviewing the incorrect allowance and rectifying the error; it incorrectly advised that a complaint had been logged on the account; it incorrectly categorised the complaint activity on the account; and it provided incorrect information following a query from CCW. I find that the company has not failed to provide its services to the standard to be expected in these regards.

Redress

17. The customer requests clarification from the company as to where the leak was discovered during the repair in January 2019, and an explanation as to why it was not initially informed of the possibility that the leak was private until CCW chased in March 2019. I am satisfied that this request is fair and reasonable in the circumstances. The company should therefore contact the wholesaler and obtain clarification and an explanation on the customer's behalf, if it is able to do so.

18. In respect of the customer's requests for a full allowance for the water lost via the leak/compensation in the sum of £10,000.00 for a water and sewerage allowance, as discussed above, RST, and not the company, is responsible for granting any leak allowances. I find no failings on the company's part in these regards. Any claims or complaints against RST cannot be considered under this adjudication. Consequently, this aspect of the customer's claim is unable to succeed.

19. In respect of the customer's request for £2,500.00 for "time, material distress, resource and inconvenience", as discussed above, I find that the company has not shown that it met its obligations to the customer in relation to complaints raised from January 2019. The company

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also accepts that there were a number of failings on its part during the period of the complaint. Bearing in mind that the issues with the customer and the company has been ongoing for over a year, I am satisfied that the customer is entitled to a measure of compensation for the stress and inconvenience caused. However, I find that the amount claimed is disproportionate to the failings shown. In addition, I take into account the fact that the company has already paid the customer £100.00 for the accepted. (For the avoidance of doubt, I am not satisfied that that sum is sufficient, and fair and reasonable for the failings shown.) Having carefully considered the evidence provided, I find a further sum of £200.00 to be a fair and reasonable level of compensation. I therefore direct that the company pay the customer a further £200.00.

20. In respect of the customer's claim for an apology, in light of my findings above, I find that it would be fair and reasonable to direct that an authorised representative of the company provide the customer with a written apology.

Outcome

The company needs to take the following further action(s):

(1) Contact the wholesaler and provide the customer with clarification as to where the leak was discovered during the repair in January 2019, and an explanation as to why it was not initially informed of the possibility that the leak was private until CCW chased in March 2019, if it is able to do so; (2) Pay the customer a further £200.00 compensation; (3) Provide the customer with a written apology.

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.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.

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- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.



**U Obi LLB (Hons) MCI Arb
Adjudicator**

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