

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1425

Date of Decision: 26 June 2019

Complaint

The company has caused a late payment marker ("Late Payment Marker") to be entered onto the customer's credit file. The customer would like it to be removed because (1) he has been paying his account over a number of years without ever having any problem; and (2) the company's bill sent out before Christmas 2018 was never received; and (3) the company had been trying to contact him using a phone number that had been out of service for over 8 years.

Defence

Prior to registering the Late Payment Marker, the company made reasonable attempts to contact the customer about his overdue bill. The payment history data shared with the Credit Reference Agency is factually correct. When dealing with the issue that the customer has raised, the company has followed all the policies, processes and legal and regulatory requirements to which it is subject. Accordingly, it is unable to remove the Late Payment Marker as the customer requests.

No offer of settlement has been made.

Findings

When registering the Late Payment Marker on the customer's file, the company acted reasonably and in line with industry requirements and 'good practice' generally. The company did take reasonable prior steps to try to alert the customer to the overdue bill.

Outcome

The company does not need to take any further action.

The customer must reply by 24 July 2019 to accept or reject this decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

objectives such as:

- identifying who its customers are so that it can send them a bill; and
- making the best and fairest decisions about the extent of its customers' responsibility and their ability to pay for the services that the company is required to supply.
- The company wants to be able to place its customers on the best payment arrangement or payment assistance scheme with a view to helping them avoid water debt or become free of water debt. Due to the way that the water industry is set up, the company also needs to seek out sources of accurate, up to date and relevant information about its customers in order to:
 - meet its Data Protection compliance obligations; and
 - to be able to make decisions based on accurate information.
- It will share its customer data with CRAs whether positive or negative and the majority of its customers benefit from positive credit data. The company points out that this activity is not just about debt collection/tracing but also about understanding its customers' ability to pay based on their payment behaviour with other suppliers of goods/services. Sharing is also used to maintain data accuracy and to validate the information that has been supplied by the customer and/or by third parties.
- In line with its 'fair processing' obligations, the company explains that it has notified all of its customers of its intention to share their data with CRAs since 2011 on the back of all bills, in annual billing leaflets and (extensively) on its website.
- On 8 February 2018, the company sent the customer a new bill, which showed when his quarterly payments were due. The company asked for £81.33 to be paid on 30 April 2018, followed by three payments of £81.31 on 30 July, 30 October 2018 and 30 January 2019.
- The company received payment of the first instalment in two amounts:
 - £62.57 on 4 May 2018; and
 - £18.76 on 8 June 2018.
- Prior to the customer's second payment, the company had sent him a reminder on 14 May 2018 followed by a legal notice on 30 May 2018. The customer had also called the company on 24 May 2018 to say that he had received the company's voicemail, left on his mobile number 07[]17, about the overdue instalment.
- The company's records show that the customer's mobile number was added to his account on 18 May 2011.
- The company received payment of July's instalment on 8 August 2018.
- On 1 October 2018, the customer was sent a payment request for his next instalment due on 30 October 2018. When the company did not receive payment of that instalment, it sent a text

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- message to him on 10 November 2018, followed by a reminder on 16 November 2018. Also, it called his mobile on 24 November 2018 and on 26 November 2018 (but there was no answer).
- On 2 December 2018, it sent a legal notice in respect of the overdue instalment, but as (still) no payment was received, the customer's instalment plan was cancelled and a bill for his full account balance of £162.62 was sent on 21 December 2018.
 - On 3 January 2019, the customer paid £81.31 to cover his 30 October 2018 instalment due but he did not get in touch to reset his payment plan (and as explained above, his full account balance was due because his instalment plan had been cancelled.)
 - The company points to page 14 of its Charges Scheme, which provides that:
 - "... *Unmeasured charges are due in advance, (unless alternative arrangements are agreed with you) and can be paid annually, half yearly, quarterly or by instalments. If you choose to pay by instalments and you do not pay on time then all outstanding charges on your account become due immediately ...*"
 - On 14 February 2019, the company shared a payment status of '1' in respect of the customer's account as his account was 1 month in arrears. This was because the company had neither received payment of the full balance that was due nor any contact from the customer to reset his payment plan.
 - Following the new bill being sent to him on 27 February 2019, the customer called on 8 March 2019 as he had checked his credit file and noticed the Late Payment Marker. The customer then made a payment of £81.31 to clear the balance of his charges due up to 31 March 2019.
 - The company says that:
 - unless a customer makes contact, it has no way of knowing whether non-payment is an oversight or whether the customer is having difficulty (for example) in paying their bill;
 - it sends reminders and texts and tries to encourage customers to get in touch so it can help;
 - it was unaware that the customer had changed his phone number;
 - it did not receive any undelivered items from the Royal Mail (so its understanding was that its bills and reminders were delivered correctly);
 - it has deleted the phone number 01[]73 from the customer's account and only has his mobile number 07[]17 now held;
 - it has encouraged the customer to register for its online 'My Account' service (if he has access to the internet) whereby he could opt to receive paperless bills or consider setting up a Direct Debit with the company;
 - it has also promoted its mobile app to the customer, which he could use to check his

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

balance and make payments.

- Prior to sharing the late payment status of '1', the company submits that it made reasonable attempts to contact the customer to alert him to his overdue bill.
- Under the circumstances - and given that the relevant status shared with the CRA was factually correct - the company does not believe that it should remove the Late Payment Marker added in respect of the customer's account.

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. I have reviewed in particular:
 - a. the customer's WATRS application form;
 - b. the thirteen documents that are appended to the company's defence.
2. I appreciate the customer's frustration about the Late Payment Marker. From his perspective:
 - a. he has been a consistent payer over a very long period of time, without any problems;
and

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- b. the company's December 2018 bill was never received and it did not come to his attention; and
 - c. the company's attempts to reach him by text and voicemail were unfortunately directed to a number that had been out of service for over 8 years.
3. On the company's side, it argues that the sharing of customers' payment statuses with CRAs is important on a number of levels ("Objectives") in order:
 - a. to meet the company's Data Protection compliance and 'fair processing' obligations;
 - b. to ensure that the company's decision-making is based on data that is accurate;
 - c. to help customers avoid falling into debt (by better understanding "... *customers' ability to pay based on their payment behaviour with other suppliers of goods/services ...*")
4. These Objectives seem reasonable to me and in line with industry requirements and 'good practice' generally. I am satisfied (and find) that - when registering the Late Payment Marker on the customer's file - the company was acting properly and pursuant to its Objectives in this case.
5. I do not consider it can be said that the company instigated the Late Payment Marker too hastily. I have traced the account history through the defence appendices 6, 7, 8, 9 and 11. On the basis of my examination of those documents, I am satisfied that the company followed a measured course before deciding ultimately to enter the Late Payment Marker.
6. As to the 'late payment' not coming to the customer's prior attention (because, for example, the company were using an out-of-date phone number), I note that the company responds as follows:

"... Unless a customer contacts us, we have no way of knowing whether non-payment is an oversight, or they are having difficulty paying their bill ... We were unaware that Mr [] had changed his phone number, and we did not receive any undelivered items from the Royal Mail so our understanding is that our bills and reminders were delivered correctly ..."
7. In my assessment, the way that the company explains its position on this is understandable. I accept the company's submission that, prior to registering the Late Payment Marker, it "*made reasonable attempts to contact Mr [] to alert him to his overdue bill*".
8. For all these reasons, I have been unable to identify any failing on the part of the company or any particular conduct that falls below the standard that would be expected. I am not persuaded

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

that it would be appropriate, therefore, to require the company to remove the Late Payment Marker as the customer asks in this instance.

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 24 July 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.



Nik Carle, LLB (Hons), Solicitor, DipArb, FCIArb

Adjudicator

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.