

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1427

Date of Decision: 12 September 2019

Complaint

The customer submits the company has failed to provide an effective sewerage system to his property for two years. He claims for the company to provide a drainage system and to pay compensation in the sum of £10,000.00 for damage and costs.

Defence

The company denies liability. It submits its sewer pipe has been damaged by a culvert and sink hole owned by a third party. Despite this, it has taken action to ensure the customer has experienced no loss of service or sewage escape.

Findings

The company failed to provide its services to the standard to be reasonably expected. However, the customer has not justified his claim for compensation.

Outcome

The company does not need to take any further action.

The customer must reply by 10 October 2019 to accept or reject this decision.

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- The customer's neighbour has to repair the culvert and sink hole before it can seek a permanent repair to its sewer pipe.
- It is regularly pumping out the customer's sewer to prevent any blockage or loss of service. However, it accepts it did not visit regularly from 18 June 2019. Despite this, the customer did not report any problems or sewage escapes.
- It cannot do any more until the customer's neighbour carries out repair works to the culvert and ground.
- It placed a bung in the customer's manhole to prevent a pollution incident. It cannot say if it had the customer's consent, but it will now serve a retrospective notice allowing it to take this action.

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. In accordance with WATRS scheme rule 5.4.3 I must disregard any new matters or evidence raised in the customer's comments.
2. It is not in dispute that a damaged culvert and sink hole are affecting the company's sewer pipe and the customer's sewerage system.

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3. Both the culvert and sink hole are on private land, the company denies responsibility for both and, the customer has provided no substantive evidence within his claim to prove the company owns the culvert or caused the sink hole. I am therefore unable to find the company is responsible for these issues.
4. The customer has provided a photograph which suggests the company's sewer pipe is lying upon and causing a bend to the culverted watercourse. However, I cannot ascertain from the photograph if this is actually affecting the culvert or causing it damage. I find this is not adequate to prove the company is responsible for any damage to the culvert.
5. I note the company is taking steps to prevent blockages to its sewer pipe and I consider it has acted reasonably in doing so. However, the company accepts it did not pump out the customer's sewer as often as it had agreed to. I therefore find it failed to provide its service to the standard to the reasonably expected. However, I note there is no evidence this failing caused the customer to suffer any loss or damage.
6. There is no evidence the company obtained the customer's consent or followed the correct procedure before placing a bung in the customer's manhole. I therefore find it failed to provide its service to the standard to the reasonably expected in this regard. However, I note the company could take such action provided it completed the correct paperwork and, there is no evidence its failure to do so caused the customer any loss or damage.
7. I must consider first whether the company has failed in any respect and then whether those failings have caused the customer any loss that justifies his claim. I have identified two failings by the company above however, I find no evidence these negatively affected the customer. In the absence of any other proven failing or loss, I find the customer's claim is unable to succeed.
8. I appreciate the customer will be disappointed with this outcome. However, it is clear from the documents provided that the customer has experienced problems with his sewerage system due to the damaged culvert and sink hole. As the customer cannot prove the company is responsible for these issues I cannot find it liable to provide a remedy.

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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 10 October 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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Justine Mensa-Bonsu, LLB (Hons), PGDL (BVC)

Adjudicator

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