

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1430

Date of Decision: 4 July 2019

Complaint

The customer submits that the company carried out a repair to her supply pipe that was not required; her supply pipes were replaced in 2017. She asserts that after receiving Notice from the company, she arranged for third party 'Dyno-rod' to attend; however, it found that no leak was present. The customer requests the cancellation of the charges of £425.00 she has been invoiced for by the company.

Defence

The company asserts that after detecting a high-volume leak on the shared pipework supplying the customer's property, it served a Waste of Water Notice on the customer. The customer disputed the presence of a leak and advised that her insurer's found no leak. However, its inspections showed a leak was present and after two failed attempts it undertook the repair on 27 October 2018 and it is appropriate that the associated costs of the repair are passed on to the customer, who is responsible for this pipework. The company denies it is liable to cancel the charges of £460.00.

Findings

The company is legally entitled to require a customer to carry out repair(s) on their private pipework to prevent the waste of water via issue of a Notice. Further, if the required repair(s) are not carried out, it is entitled to undertake the repairs and recover the reasonable costs of the repair(s) from the recipient of the Notice. In the customer's case, the company has shown, on the balance of evidence, that a leak was present and it had a right to effect the repair and therefore seek to recover the reasonable costs of the repair, from the customer. Due to admitted customer service failures by the company, it cancelled two x £165.00 charges applied for its (failed) repair attempts and applied a £30.00 goodwill credit. However, due to a further admitted error by the company in calculating the remaining balance owed by the customer, I find it fair to direct that the company apply a further £20.00 credit (against the customer's outstanding charges) for its failure to provide its service to a reasonably expected standard on this occasion.

Outcome

The company shall adjust the customer's outstanding charges from £460.00 to £440.00 to reflect a £20.00 credit for its further customer service error.

The customer must reply by 01 August 2019 to accept or reject this decision.

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Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The company contacted her in 2018 advising there was a water leak between her property (number 4) and the neighbouring property (number 2).
- Her water and drainage pipes (from the side of her back gate) had been replaced by Dyno-rod (working for British Gas) on 6 November 2017.
- She then called Dyno-rod (working for British Gas) to investigate. They carried out their investigative work on 20 July 2018 and concluded "categorically" that there was no such leak. She contacted the company to tell them that there was no leak.
- The company, however, then served a section 75 Notice on her, instructing her to repair the leak.
- The company informed her that it would be sending out engineers on 2 August 2018 and then on 4 October 2018. On both occasions she took time off work and so that she could meet the engineers; however, on neither occasion did the engineer ring her doorbell or knock on her door.
- The company then notified her that it would attend on 27 October 2018, by the time she had opened the door, the engineers had already started the work. The engineers were very unhelpful and not interested in explaining to her what they were doing.
- The company sent her an invoice for £900.00 including 2 x £12.50 for two failed visits, £325.00 for the repair and £100.00 administration fee.
- The company subsequently admitted customer service failures, namely that it should have called the customer prior to or during the enforcement visits to the property. It has since removed the charges for the two failed enforcement repairs, totalling £325.00 plus awarded the customer a

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£30.00 credit in light of her submissions regarding the rudeness of its staff on 27 October 2018 (deducted from the final balance).

- The customer disputes that there was a leak and asserts that the company carried out work that was “totally unnecessary”.
- The customer requests that the company waive the remaining balance of the charges (the customer states this amounts to £425.00).

The company’s response is that:

- If it finds or suspects a leak on a supply pipe, it has the power under section 75 (2)(b) of the Water Industry Act 1991 to serve the consumer with notice requiring them to have the necessary repairs carried out.
- If the work is not completed by the date specified in the notice, it has the power in accordance with section 75(9), to arrange for the repair works to be undertaken by its contractors and to recover all costs from the consumer including its administration charges.
- A high-volume leak was detected on the shared pipework connected to 2 and 4 Green Lane on 7 February 2018. It called the customer on 8 February 2018 to notify her of the discovery of a leak and she advised that she had previously had all of the pipework replaced by British Gas so felt the problem was coming from her neighbour.
- A formal Waste of Water Notice was issued to the customer on 8 February 2018, requesting repairs were carried out within 14 days of the date of the letter.
- As the repairs had not been carried out by the date requested, it notified the customer of its intention to undertake the work on 2 August 2018. A letter was issued on 18 July 2018 to confirm this.
- Its contractors attended on 2 August 2018, but were unable to access the property so this visit was aborted. Three further visits were carried out on 4 October 2018, 19 October 2018 and finally, 27 October 2018 to attempt to repair the leak.
- Prior to these dates, inspections were undertaken on 31 July 2018 and 10 September 2018 and both times the technician/leakage control manager confirmed the leak was still active. A further inspection was undertaken on 17 October 2018 and again confirmed the leak was still present.
- During the repair on 27 October 2018, an excavation was carried out and the leaking pipework exposed. The leak was on a joint connecting two different sections of pipe. Within the Dyno-rod report provided by the customer dated 20 July 2018, the report confirms the technician “tested all outlets”, but it does not clarify whether the external pipework was inspected.

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- Therefore, it has correctly identified and repaired (via its contractors) a leak on the pipework supplying number 4 Green Lane, and it is entirely appropriate that the associated costs of the repair are passed on to the customer who is responsible for this pipework.
- For clarification, the outstanding sum quoted by the customer of £425.00 is incorrect; in its response of 26 March 2019 to the Consumer Council for Water (CCW), it advised that the total outstanding charges were £474.00; however, this figure is inaccurate due to an error on its part; the £100.00 administration fee was included when calculating VAT – which is a non-VAT able amount. Therefore, the final costs have been reduced to £460.00.

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 remind the parties that adjudication 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.
2. The dispute concerns charges associated with the repair undertaken by the company to the customer's supply pipe at 4 Green Lane ('the Property') following its service of a Waste of Water Notice on the customer, on 8 February 2018. The customer contests liability as she asserts the repair undertaken by the company was not necessary.

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3. I accept that under section 75 (2)(b) of the Water Industry Act ('the Act'), the company is empowered to require that a customer repair a supply pipe in order to prevent the waste of water, if it finds or suspects there is a leak. Further, if the said pipework is not repaired, I accept that under section 75(9) of the Act, the company is entitled to arrange for the repairs to be undertaken and to recover any reasonably incurred expenses from the customer on whom the notice was served (section 75 (9)(b) of the Act).
4. In the customer's case, I acknowledge that she advised the company during its call of 8 February 2018 that her water and drainage pipes had recently been replaced by Dyno-rod (working for British Gas) in 2017. I can see that the customer subsequently arranged for Dyno-rod (via her insurers) to investigate the purported leak on her pipes and that Dyno-rod attended and reported that no leak was present. The customer has submitted the 'Dyno' receipt dated 20 July 2018 to support her claim which I find states: *"no leaks present tested all outlets found kitchen tap dripping changed cartridges but no other leak found next door not home"*.
5. The company submits that inspections carried out by its leakage control manager and engineers on 31 July 2018, 10 September 2018 and 17 October 2018, all confirmed that a leak was present on the customer's supply pipe. I am satisfied that the evidence submitted by the company, at Appendix 6 of the Defence, namely the company's internal email communications and job notes, support its above contention that its own inspections carried out on these dates, confirmed the presence of a leak on the customer's pipes.
6. The company has supplied evidence at Appendix 7 of the Defence, which includes six (dated) photographs of the excavation and repair it carried out at the customer's property on 27 October 2018. On balance, I am satisfied that one of these photographs depicts leaky pipework.
7. Therefore, I acknowledge that the parties have supplied conflicting evidence in regards to the presence of a leak on the customer's supply pipe. However, on a careful review of the evidence, as the company's evidence documents several pre-repair inspections that all confirm the existence of a leak located on the pipe supplying the customer's property and because I consider that the photographs of the repair itself support its position that a leak was present, on balance, I am satisfied that the company has shown that the repair carried out on

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27 October 2018 was required and justified. Therefore, I accept that the company was legally entitled to undertake the said repair to prevent water wastage, following the customer's failure to do so after having served a Waste of Water Notice dated 8 February 2018. As such, I am satisfied that the company has shown it provided its services to a reasonably expected standard in this regard.

8. I acknowledge that the company has already cancelled charges of £325.00 (2 x £12.50) previously invoiced to the customer for the two failed visits of 4 October and 19 October 2018 (it did not invoice for the failed visit of 2 August 2018). I note that after the customer complained (via CCW) about being at home on these dates (waiting for the company's contractors) but hearing no knock (or ring at her door bell), the company accepted that its team should have telephone the customer, during the visit, to let her know it was outside the Property. It also applied a £30.00 gesture of goodwill in light of the customer's complaint raised regarding rudeness and attitude of its staff that had carried out the repair on 27 October 2018. I find that the admitted customer service failures by the company constitute evidence of it failing to provide its services to a reasonably expected standard. However, in the circumstances, I find its removal of its (failed visit) charges totalling £325.00, and the £30.00 credit applied, is a fair and reasonable resolution to the proven customer service errors set out above.

9. The customer requests the removal of the balance of the contested charges. As I am satisfied that the company has shown that both a leak was present to the customer's supply pipe and that it was legally entitled to carry out the contested repair, I find that, in accordance with the Act, it has a right to recover reasonable costs associated with the repair. In light of the company's email response to CCW dated 8 April 2019, I accept that after it removed charges of £325.00 and applied the £30.00 gesture, the company confirmed that the customer was liable to pay the balance of £474.00 (1 x £325.00 for the repair of the leak and £100.00 administration charge plus VAT). However, I acknowledge that in its Defence, the company submits that after reviewing the customer's case, it found that as the £100.00 administration fee was not subject to VAT, the figure of £474.00 is inaccurate as it included VAT on the £100.00 administration fee and that the correct figure is £460.00 (after the deduction of VAT). Whilst I accept the company's assertion in this regard, I consider this is further evidence of a service shortfall by the company. In the circumstances, I find it fair and reasonable to direct that the company pay the customer £20.00 in compensation for the incorrect calculation made in regards to the charges issued. The company shall apply this amount in the form of a credit

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applied against the outstanding charges. Therefore, the company is not liable to cancel the charges in full; however, it shall adjust the customer's outstanding charges from £460.00 to £440.00 to reflect the £20.00 credit awarded for its further error, as set out above.

Outcome

The company shall adjust the customer's outstanding charges from £460.00 to £440.00 to reflect a £20.00 credit for its further customer service error.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 01 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.



A. Jennings-Mitchell, Ba (Hons), DipLaw, PgDip (Legal Practice), MCI Arb

Adjudicator

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