

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1524

Date of Decision: 3 September 2019

#### Complaint

The customer states that he was unfairly charged for the service of laying a new water supply to his property. He states that the company failed to carry out the work in an acceptable fashion and that the company failed in its customer service in dealing with him. He claims that he has been caused much stress and inconvenience through the fault of the company and its acts and omissions.

He seeks a refund of £1,700 for the laying of the water supply to his property.

#### Defence

The company has stated that its charging is in accordance with the OFWAT guidance and is accurate and appropriate. It denies that its workmanship was poor or that it failed in its service to the customer. It states that it has fulfilled its legislative duties. It accepts that there was some lapse of service in relation to communicating the fact that workmen were unable to attend the site on the 25<sup>th</sup> March 2019.

The company previously made an offer of settlement to the customer of £130 in compensation and £860 as a refund. This offer was refused and subsequently withdrawn.

#### Findings

The company did fail in its customer service to the customer in relation to the communication of a delay in the work expected on the 25<sup>th</sup> March 2019 and the fact that the customer would have to remove scaffolding for work to proceed.

The other aspects of the customer's claim fail as the evidence does not support the customer's allegations. I have considered the company's obligations under legislation and guidance and have concluded that the customer's claims are not supported.

#### Outcome

The company needs to take the following further action: pay compensation of £130 to the customer.

The customer must reply by 1<sup>st</sup> October 2019 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1524

Date of Decision: 3 September 2019

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

### **The customer's complaint is that:**

- The cost of the quotation he was given by the company, of £1,700 to provide a new connection at his property, [ ]("the Property"), was too high.
- He states that Cadent, a gas supplier, had excavated a trench to enable a supply and that he was informed by representatives of the company that this trench could be used for the water supply.
- He states that the company could have shared the same trench on the 4<sup>th</sup> February 2019 if it had worked with him in organising the water supply efficiently.
- He refers in particular to his email of the 21<sup>st</sup> January 2019.
- He states that he was later told that the company could not share a trench.
- He states that there was a failed appointment that caused him to miss a day's work and put him to considerable inconvenience.
- He states that the company postponed work due to scaffolding, which it could have assessed earlier.
- He states that he had to inform all the neighbours of the work in progress, which was not his responsibility.
- He claims that the company left the area around the property in a poor state after the work was completed.
- He states that he has received appalling treatment and believes that this may have been deliberate on the part of the company.

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- He claims that he had to effect a clean up operation that included cleaning a neighbour's door.
- The customer states he was offered £130 in compensation for customer service failings and £860, being half of the £1,700 cost. The customer rejected this offer.
- The customer seeks £1,700 in compensation.

**The company's response is that:**

- The cost of £1,752 was disputed by the customer from the outset.
- It states that it made no indication that it might be able to share the same trench as the gas company to save costs.
- It states that it could not work in a 3<sup>rd</sup> party trench without a formal agreement.
- That the customer did not accept the quote and pay the money until 30<sup>th</sup> January 2019, which was too late to be able to carry out the work on the 4<sup>th</sup> February 2019 in any case.
- It states that the amount of £1,752 is a fixed charge and is regulated by OFWAT.
- It states that the condition of the road at the Property was poor and that this was the case before it started work.
- It states that the work was booked for the 25<sup>th</sup> March 2019 and accepts that the contractors were unable to attend that day.
- The company states that it had to abort the work planned on the 26<sup>th</sup> March 2019 as scaffolding had not been removed at the Property.
- It states that the work was rebooked for the 30<sup>th</sup> April 2019 by agreement.
- It states that the customer first complained about the poor states of the site on the 2<sup>nd</sup> May 2019 and sent photographs taken on this date. The company states that it had not finished the job or vacated the site on that day.
- It denies that the area around the Property was left in a poor state.
- That it made offers for £130 and £860 which were refused by the customer and that both of these offers are now withdrawn.

**In his comments in reply the customer states that:**

- He never suggested that the road was in good order prior to the works.
- He never could have anticipated that the complaint would go so far.
- His actions and demeanour were reasonable, fair and just.

**How is a WATRS decision reached?**

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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. For clarity I wish to remind the parties that this is an evidence based scheme and the decision I have made is based entirely on the evidence produced by the parties. It is for the customer, as the applicant, to make out his case against the company. He must show, by means of evidence, that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person. Only if this is satisfied can I turn to dealing with potential remedies. The initial onus is on the customer to evidence his case.
2. The customer states that the costing from the company for the work was excessive at £1,700. The company has stated that this costing is set in accordance with OFWAT and is a fixed charge.
3. The customer has argued that the cost of the gas works being carried out by Cadent, a third party, was less than the company was charging. I have no supporting evidence for this assertion. However, I must note here that the figures charged by a third party company for another type of service is not a comparison that persuades me that the company has overcharged. In any case, I cannot, under the WATRS rules, determine what a fair price is, I can however consider whether or not the company has complied with its legislative duties.

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4. The company has provided detailed information regarding its charges at page 23 of its defence. I note that the company states that it is in compliance with legislation and regulations. The customer has not challenged this, nor has he produced any other relevant legislation or guidance on this point. I do not find, on the evidence submitted, that the company is at fault in the manner in which it has set the charge for the work to be carried out at the Property.
5. The customer claims that the option was available for the company to share the trench dug by Cadent on the 4<sup>th</sup> February 2019 and thereby reduce costs. The company states that the fact that the customer did not agree and pay the quoted costing for the work until the 30<sup>th</sup> January 2019 made it impossible for the work to be arranged in such a short period of time.
6. The company states that the customer did not make the required payment in advance to secure the work order until the 30<sup>th</sup> January 2019. The customer does not deny this.
7. The customer states that he tried to make arrangements so that the gas and the water supply could be carried out at the same time. He states that employees of the company agreed this with him verbally. The customer has referred me to an email from himself to an employee of the company called [                    ], dated 21<sup>st</sup> January 2019, which, he states, is strongly supportive of his allegation. The company has noted in its defence that the email does not support the assertion that it had agreed to share the trench, as the email actually asks for the company to take into consideration this option. In looking at the email I am of the opinion that the company's interpretation is correct.
8. In his application the customer states that the question of how he could have got the idea "so wrong" if the sharing of a trench was not possible, should be important in this adjudication. I must stress here that this is an evidence based process and that I am bound to make my findings based on fact and supporting information. I do understand the implication being put forward by the customer, however, I cannot speculate on the state of mind of either of the parties, or the potential reasons for the parties' views on certain matters.
9. Looking at the evidence I am not persuaded that the company did agree to share the trench at any time. I also accept that the payment was made on the 30<sup>th</sup> January 2019 and that, logistically, this would have left too little time for the company to have made the necessary arrangements to carry out the work by the 4<sup>th</sup> February 2019. I further take into account that it does not appear that the company dismissed the suggestion of sharing the trench, but implied

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that it would look into this option. I also note that there is no evidence to state that this option would have actually reduced the cost of the new water supply. It is important to note that the company's obligations are dictated by legislation and that it must operate under guidance and statute. It cannot dispense with necessary inspections and legal agreements as it is not within its gift to do so. I do not find that there is any fault shown in the way in which the company has acted with regard to this part of the application.

10. The customer claims that the company did not turn up on the agreed date of the 25<sup>th</sup> March 2019 to carry out the work. He states that he was not contacted to be informed of the delay. The company has accepted this and concedes that this was a failing in its service to the customer. It states that it did make an offer of £130 to the customer as compensation.
11. The customer states that he lives about 30 minutes away from the property and had to leave very early to ensure his attendance at the house. He states he was there from 7am until late afternoon, when, after he contacted the company, he found out that it was unable to attend due to another job overrunning. He claims that the company didn't contact him to let him know of this delay.
12. The company has accepted this part of the application, but it states that the work could not have gone ahead on this date due to the presence of the scaffolding at the Property. (I shall deal with the issue of the scaffolding in a separate paragraph).
13. In considering this part of the claim I take into account that the inconvenience that the customer experienced was due to the fact that the company did not communicate to him that it could not attend on the appointed day. I find that this lack of communication was below the standard to be reasonably expected by the average person and that in this regard the company was at fault.
14. The customer states that the company postponed the work on the 26<sup>th</sup> March 2019 due to the presence of scaffolding. However, the customer does not accept that this was a valid reason to delay the work and he claims that the company did not indicate to him that the scaffolding would have to be removed to undertake the work required. He states that there was no mention of the unsuitability of the scaffolding at a site visit made prior to the 25<sup>th</sup> March 2019. The company disputes this in its defence and states that the customer was made aware of the preparatory work needed before it started work and that this included a provision that all scaffolding must be removed.

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15. The company has supplied supporting evidence. There is the log note of a voicemail left on the 18<sup>th</sup> March 2019 in which it was stated that the area must be cleared of scaffolding. The customer has not challenged this in reply.
16. In considering this aspect of the claim I note that there is no other communication from the company to the customer relating to the scaffolding requirements. I consider it entirely a matter for the company to decide under what health and safety conditions its employees work. I am not persuaded by any arguments made in relation to the safety of the scaffolding as it is not a matter to be decided by anyone other than the company. However, the matter of *communicating* the requirement to remove the scaffolding is one of customer service. I do accept that the company left a voicemail for the customer and this has not been challenged. However, I am not satisfied that, given the nature of the arrangements required, especially the laborious work of removing scaffolding, that one voicemail message can be considered as adequate communication in the circumstances. In this regard I find that the company did not provide its service to a standard to be reasonably expected by the average person.
17. The customer claims that the road outside the Property was left in an appalling state after the company left. The company denies this. I have carefully looked at all the pictures submitted by both parties. I note that the picture of the 2<sup>nd</sup> May 2019 take by the customer shows the Property while the work is still ongoing. I note that this picture was sent to the company with a complaint about the poor condition that prevailed after the company had left the site. The customer has accepted in his reply that this picture is a “red herring”. I note further that there is no other photographic evidence that inclines me to accept that there was any fault with the way in which the site was left by the company. I refer to the internal email sent by a company employee on the 1<sup>st</sup> May 2019 detailing how happy the customer was with the work that had been completed.
18. I have taken into account that the customer carried out power washing at the site, however I am not persuaded that the evidence shows any problems with the way in which the Property and surrounding site were left after the work was completed. I note further that the road surface had always been of an uneven nature, a fact that is not disputed.
19. The customer states that he received appalling treatment from the company and that he felt it may have been deliberate. I have not found any evidence to support this interpretation by the customer. I do not seek to undermine the customer’s feelings of frustration; however, my

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decision has to be based on the evidence and facts as presented and in this case I do not find that there is any evidence that the company acted to deliberately frustrate the customer's plans.

20. Remedies: The customer seeks a refund of £1,700 for the new water supply that he has already paid to the company. I have not found any fault with the company's work in installing the supply. Neither have I found that the billing or quotation was wrong. Therefore, I do not make this direction.

21. As I have found failings with the company's customer service in its communication to the customer around the 25<sup>th</sup> March 2019 and the scaffolding issue. I shall use my discretion to award an amount for stress and inconvenience commensurate with my findings. I make a direction that the company shall pay the customer £130 in compensation.

22. I am aware that the customer may be very disappointed in this outcome. I must stress here that I have no authority to award a goodwill payment and that the previous offer by the company was explicitly withdrawn by the company upon the customer deciding to continue with adjudication. My decision has to be made on the evidence presented and my findings from that evidence.

#### **Outcome**

The company needs to take the following further action; pay compensation of £130 to the customer.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 30<sup>th</sup> September 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.

A handwritten signature in cursive script, reading "J J Higgins", is displayed on a light green rectangular background.

J J Higgins, barrister, ACI Arb.

**Adjudicator**

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