

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1572

Date of Decision: 13th September 2019

Complaint

The customer states that the company pursued a debt against him about which he had not been informed. He states that this resulted in a negative credit marker against his credit file and caused him stress and inconvenience. The customer states that he only realised the problem when he tried to obtain credit for a mortgage in 2019. He states that as a result of the company's actions he has been refused credit. He states that this has caused him stress which is made worse due to his ill health.

The customer seeks £60 to refund his expenses and £400 for stress and inconvenience.

Defence

The company states that it was not wrong to process the debt as it did because the money was properly owed. It does accept that there were no communications between November 2016 and May 2017 but states that this would not have affected its procedures in dealing with the outstanding charge. It claims that it did send a bill in November 2017 detailing the charge of £39.15 and that the customer, therefore, knew of the charge.

It states it has removed the negative marker from the customer's file but it has declined to make any offer of compensation.

Findings

I find that the company did not communicate in an adequate manner with the customer over the outstanding debt and in this regard fell below the standard of service to be reasonably expected. I do not find that it was responsible for the refusal of the customer to obtain credit.

Outcome

The company needs to take the following further action: Pay compensation of £110 to the customer.

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The company's response is that:

- It has agreed to remove the late payment markers due to the fact that there is no follow up between November 2016 and May 2017.
- It states it did send a bill on the 21st of November for the amount owed.
- It declines to make a payment to reimburse the customer for his credit check search stating that paying for a credit check was not necessary.
- Company states that the customer has a duty to mitigate his fees.
- It states that he could have checked his credit file for free and did not have to pay two amounts of £30 to view the file.
- The company has accepted that there was insufficient communication with the customer regarding the outstanding amount owed, nonetheless, it does not believe that any compensation is due.
- It states that the amount charged was properly owed and it was not wrong to report an outstanding amount to the credit reference agency.
- Company states that it credited the customer's bill with a goodwill payment of £30 on the 5th of June 2019.
- The company states that the customer was happy to close his case in June 2019 after accepting the £30 payment but he changed his mind later and sought to pursue this action.

In his comments in reply the customer states:

He believes the company is being heavy handed.

He does not feel that he should have to prove failed credit attempts.

He was compelled to check his credit account due to the company's mishandling of the charge.

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.

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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 should clarify here that this is an evidence based process. The customer is required to make out his case against the company using supporting information where possible. Only if satisfied that the company has failed in its statutory duty as a service provider would I then go on to look at the matter of an appropriate remedy and the evidence submitted to support the claims for compensation.
2. It is common case that the customer switched his account type in November 2016. Further, it is not disputed that there is an amount of £39.15 which arose when the old account was closed in November 2016.
3. The customer claims that he never received any billing in November for £39.15 from the company and that the first he knew about the outstanding amount was when he checked his credit file in May 2019. The company disputes this stating that it sent a bill on the 21st of November 2016 with the outstanding amount. The company has submitted a bill dated 21st of November 2016 for the outstanding amount.
4. I take into account the note in the company's defence dated the 5th of June 2016 which is a written note of a telephone conversation between [], who works for the company, and the customer. This states, "*I have also given the customer a goodwill payment of £30 for not providing any bills to advise this amount was outstanding.*"
5. I consider that the information given to the customer indicated that the company's employee was not aware that a bill had been sent on the 21st November 2016 for the outstanding amount.

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Given that the customer states that he did not receive this bill it occurs to me that there is, at least, some confusion on the part of the company as to its billing in relation to this account.

6. I note that it is accepted by the company that there was no correspondence between the November 2016 and May 2017 when the charge was incorporated into a larger bill that was paid by the customer.
7. I note that the company now makes the defence that the customer was wrongly advised that it had not followed its own debt procedures. It claims that this would not have made any difference to the matter of whether or not the negative marker would have been applied to his name. I am not persuaded here that it is a matter of no consequence that the customer was not informed of the outstanding charge and that it was registered as a non-payment for two months against his credit file. I consider that the lack of communication did not allow the customer to avail of an opportunity to pay the charge and thus avoid having the negative marker against his name for this charge.
8. In an email on the 26th June 2019 to the company, the customer quotes a letter from the company that states: *“As the account hadn’t yet produced a bill until 9 May 2017, you hadn’t been made aware that this amount had been outstanding since the closure of this account.”* I take into account that this is further support for the customer’s assertion that he was not aware of any outstanding charge.
9. I note that the company has removed the negative marker from the customer’s credit report. The customer states that he undertook two credit searches amounting to a cost of £60. The company has pointed out that the customer could have obtained a free report. I am not persuaded that the customer acted unreasonably in seeking to obtain his report by the method he chose. I also take into account that it was the apparent lack of communication from the company that caused the circumstance to arise where the customer was unaware of the negative marker on his account.
10. I note that as soon as the bill was presented to the customer by way of his new account it was paid without delay. This was an amount of £393.75. This indicates to me that the customer was a regular payer and that he was not aware that money was outstanding and being actively sought by the company.

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11. The customer has stated that the negative marker against him only became apparent when he applied for a mortgage. He has stated that this has also prevented him from obtaining other types of credit. The customer has not produced any supporting evidence for this part of his claim. I note that the customer has stated in his reply that he feels that this would be information that was too personal to reveal to the company. This is understandable, yet I cannot make a finding that the effect of the negative marker was the refusal of credit to the customer where I have no evidence of that allegation.
12. The customer has not submitted the information from the credit reference agency in support of his claim. On the evidence as it stands, I cannot determine if the actions of the company were the sole reason for the customer allegedly being refused credit.
13. I find, on the evidence before me, that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person in that it did not properly communicate necessary information to the customer to allow him to mitigate his circumstances and pay the bill on time.
14. Remedy due: The customer seeks £60 for the reimbursement of fees. I am satisfied that the customer acted in a proper manner when he sought information regarding his credit file. I direct that the company make a payment of £60 to the customer as a reimbursement.
15. The customer seeks £400 for distress and inconvenience. I have been supplied with the medical information submitted by the customer. I am sure that it was difficult for the customer to have to disclose such information. My assessment of an appropriate remedy is made on the basis of the level of fault that I have found in the company's actions. While I have found that the company failed to communicate effectively with the customer, I have not been persuaded that the customer has sufficiently shown that he was refused credit solely as a result of the company's actions. Neither have I supporting evidence to find that there was a refusal of a number of applications for credit as alleged by the customer. This is not to criticize the veracity of the application made by the customer, rather this reflects the findings I have made on the available evidence. I cannot make a finding of fact on an unsupported statement. I direct that the company make a payment of £50 to the customer for stress and inconvenience.

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16. In coming to this decision, I have also taken into account the fact that the company has attempted to rectify the negative score by removing the negative marker from the customers credit file and that it has already made a payment of £30 to the customer as a goodwill gesture.

Outcome

The company needs to take the following further action: pay £110 to the customer.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 11th October 2019 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.
- 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.



J J Higgins, Barrister, ACIArb.

Adjudicator

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