

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1581

Date of Decision: 23 October 2019

Complaint

The customer applied for a reduction of the surface water charges applicable to the [] College ("GKC") site on 19 February 2018. Information on the application form led the customer to believe that, if the application was successful, the reduction would be backdated to April 2017. The company forwarded the application to RST Water ("the Wholesaler") who asked for the exact date that the surface water drainage arrangements were altered on the site, in order for the correct reduction to be applied. However, the customer was unable to determine from the available records when the work was carried out. The customer states that the Wholesaler should have visited the site to inspect the arrangements but, in any event, the evidence submitted with his application on 19 February 2018 shows that the pipework arrangements are long-established. The site visit did not take place until 22 May 2019, following which the Wholesaler agreed to reduce the charges from the date of the site visit onwards. However, the Wholesaler refuses to backdate the charges to 1 April 2017 because the customer is unable to provide the exact date the current surface water drainage arrangements were constructed. Given the evidence submitted to the Wholesaler, the customer does not accept that being unable to determine the exact date the pipework arrangements were constructed is a sufficient ground to refuse to backdate the reduction. The customer wants the reduced charges backdated to 1 April 2017, the company to amend the relevant bills to reflect the reduction, and an apology from the company for failing to challenge the Wholesaler's decision not to backdate the reduced charges to 1 April 2017.

Defence

RST Water is the wholesaler for the customer's water and sewerage supply and is responsible for authorising surface water and highways drainage charge adjustments. On 19 February 2018, the customer, on behalf GKC, applied to the company for a surface water charge reduction and the company forwarded this to the Wholesaler. For the Wholesaler to consider the application, it requested the date that work was carried out on a gully that had been disconnected and redirected to drain on non-permeable ground. However, this information was not supplied. On 22 May 2019 a site visit took place and, as a

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result, the surface water banding was reduced from band 9 to band 8, effective from the date of the visit. However, the Wholesaler has advised that the adjustment could be backdated further on production of evidence to substantiate the date the alteration was made to the gully. Until the required information is provided to the Wholesaler, and a backdated reduction is authorised, the company cannot reduce the customer's bills.

The company has not made an offer of settlement.

Findings

The Wholesaler, not the company, is responsible for assessing the customer's eligibility for a surface water charge adjustment, and the company is responsible for applying any authorised adjustment to the customer's account. As the Wholesaler is not a party in this case, I am unable to make a finding regarding the Wholesaler's decision not to backdate the reduced charges to 1 April 2017. Therefore, the customer's claim in this regard cannot succeed. The customer also requests an apology from the company on the basis that it failed to challenge the Wholesaler's decision not to backdate the reduction. However, the evidence demonstrates that the company engaged with the Wholesaler regarding this matter and there is no evidence to suggest that the company failed to fairly and accurately convey the customer's position to the Wholesaler. In view of this, I am unable to conclude that the company has failed to effectively operate as an intermediary between the wholesaler and the customer, or that the company has failed to provide its service to the standard reasonably expected by the average customer. Therefore, the customer's claim for an apology cannot succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 20 November 2019 to accept or reject this decision.

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Date of Decision: 23 October 2019

Party Details

Customer: [].

Company: [].

Case Outline

The customer's complaint is that:

- He is the representative for GKC College and explains that the college carried out its own administration until 31 January 2018 but is now administered by Sefton Council at [] College.
- As such, the company closed the account for GKC on 31 January 2018 and set up a new account for [] College and GKC. He applied to the company for reduced surface water charges for the GKC site on 19 February 2018.
- The application form stated "Please complete the form and return it to the address shown at the end. Important: we can only backdate your reduction in surface water charges to 1 April, or the date of the change (if later than 1 April)." He interpreted this statement to mean that, if the application was successful, the reduction would be backdated to April 2017 as the application had been submitted in the 2017 – 2018 financial year. The company sent the application on to the Wholesaler.
- In the company's defence document, it states that the initial application was rejected in October 2018. However, he was not informed of this and states that the company had no regard for the financial implications to the college's budget as this caused a delay.
- The Wholesaler asked for the exact date that the surface water drainage arrangements were altered on the site, in order for the correct reduction to be applied. However, he was unable to determine from the available records when the work was carried out. He states that the Wholesaler should have visited the site to inspect the surface water drainage arrangements but, in any event, the evidence submitted with his application on 19 February 2018 shows a moss

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covered, cambered tennis court complete with a rusting fence; this should be sufficient to persuade the site assessors that the pipe network was a long-established arrangement. The photographic evidence submitted regarding the drainage gully and cracked outlet drainage pipe would also indicate that the pipework arrangements are not a recent addition to the site, and this would have been confirmed if a site visit had been carried out within a reasonable timescale.

- However, due to the to-ing and fro-ing between himself, the company and the Wholesaler, a site visit was not conducted until 22 May 2019. Following the site visit, the Wholesaler agreed to reduce the charges from 22 May 2019 onwards but will not backdate the charges to 1 April 2017 because he is unable to provide the exact date the pipework arrangements were constructed.
- He does not accept that being unable to confirm the dates of the physical works is sufficient reason, given the evidence submitted, to refuse to uphold the conditions on the application form. He has made several surface water claims in the past and they have always been dated back to the previous April, yet the company has failed to challenge the Wholesaler's decision on his behalf.
- He wants the reduced charges to be applied to the GKC account from 1 April 2017 to 31 January 2018, and on [] College's account for GKC from 1 February 2018 onwards, and he wants the company to amend the relevant bills to reflect the reduction. He also requests an apology from the company for not challenging the Wholesaler on its decision not to backdate the reduced charges to April 2017.

The company's response is that:

- RST Water is the wholesaler for the customer's water and sewerage supply, whilst the company is the customer's retailer for both elements. The policy on surface water charge adjustments is owned by RST Water.
- It received correspondence from the Finance Officer of GKC advising that, with effect from the 31 January 2018, GKC would be merging with [] College and would no longer continue as a separate entity. Therefore, it actioned a change of tenancy and closed the account for GKC.
- On the 19 February 2018, the customer, on behalf of GKC, applied to the company for a surface water charge reduction and this was forwarded to the Wholesaler. This application was rejected in October 2018 because the Wholesaler had not received clarification of onsite contact details; the application had been raised in the name of GKC, but the account was now registered under [] College. However, it continued to liaise by email with the customer regarding this matter.
- In order for the Wholesaler to consider the application, the Wholesaler requested the date that work was carried out on a gully that had been disconnected and redirected to drain on non-permeable ground. The Wholesaler requested this information prior to the site visit taking place

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so that, when the visit did take place and the report was filed, any adjustments could be made from the date the pipework redirection took place. On 22 May 2019 the site visit took place and, as a result, the surface water banding was reduced from band 9 to band 8, effective from the date of the visit. The Wholesaler repeated its request for the date the work was carried out on the gully so that it could consider back dating the allowance further.

- The wholesaler's policy is to back date an adjustment to six months from the date a claim was made, or from the date of the amendment to the surface water drainage system, if the amendment was made after this time. Further clarification was required as conflicting information had been given to the Wholesaler; it had been advised that the pipework had not been altered in recent years, but information also received gave the Wholesaler the impression that the work had been done from 2018 onwards.
- The claim was upheld by the Wholesaler from the date of the visit in May 2019 and it is unable to challenge the Wholesaler further. However, the Wholesaler has advised that there could be a possibility of the adjustment being backdated further on production of evidence to substantiate the date the amendment was made to the gully.
- Until the required information is provided to the Wholesaler and a further rebate is agreed, it cannot change the customer's bills to backdate the reduction in surface water charges to 1 April 2017.

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.

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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. Having reviewed the evidence provided by both parties, I find that the company is the customer's retail provider and is responsible for billing, accounting and customer services. RST Water is the customer's wholesaler and, as such, is responsible for the maintenance and repair of the water and sewerage assets and, amongst other things, the calculation and authorisation of surface water charges and rebates. Therefore, RST Water, not the company, is responsible for assessing the customer's eligibility for a surface water charge adjustment, and the company is responsible for applying any authorised adjustment to the customer's account.
2. In order to make a decision in this matter I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.
3. The customer wants the Wholesaler to authorise the company to apply the reduced surface water charges to GKC's account from 1 April 2017. Therefore, the Wholesaler's decision not to backdate the reduction to 1 April 2017 is central to this dispute. However, as explained above, because the Wholesaler is not a party in this case, I am unable to adjudicate on the conduct, or liability, of the Wholesaler. Whilst I fully appreciate that my decision will disappoint the customer, I am unable to make any determination regarding the Wholesaler's refusal to backdate the charges to 1 April 2017. Therefore, the customer's claim in this regard cannot succeed.
4. The customer also requests an apology from the company on the basis that it failed to sufficiently challenge the Wholesaler's decision not to backdate the reduction.

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5. However, the case notes supplied by CCWater demonstrate that the company has engaged with the Wholesaler regarding this matter and there is no evidence to suggest that the company has failed to fairly and accurately convey the customer's position to the Wholesaler. Furthermore, the Wholesaler appears to have reached a final position on the matter following its communications with the company, that being that the surface water reduction will not be backdated further unless evidence is submitted to demonstrate the date the current pipework network was constructed.
6. In view of this, I am unable to conclude that the company has failed to effectively operate as an intermediary between the wholesaler and the customer, or that the company has failed to provide its service to the standard reasonably expected by the average customer. Again, I am aware that this is not the outcome the customer hoped for, but I am unable to direct the company to apologise to the customer in the circumstances demonstrated by the evidence. Therefore, the customer's claim for an apology does not succeed.

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 20 November 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.

KS Wilks

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Katharine Wilks

Adjudicator

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