

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1582

Date of Decision: 28 October 2019

#### Complaint

The customer states that there has been a problem with water ingress at his home since 2017. He states that the company has taken an excessive amount of time to investigate the issue. He claims that the final outcome is not satisfactory and that he has been left to deal with a problem that should have been resolved by the company. He states that this has caused him and his family much inconvenience and stress.

He seeks that the company should make an apology, reimburse him £450 for work undertaken and £2,500 in compensation for inconvenience and stress.

#### Defence

The company states that it has sent a lot of its time on this investigation and that it was necessary to eliminate possible causes for the water ingress. It states that its finding is now final and that it has concluded that it bears no responsibility for the problem occurring at the customer's house as it is ground water and not water from its assets.

#### Findings

I do not find that the customer has established, on the evidence provided, that there is any liability on the part of the company for the ingress of water at the customer's property. I do not find that it has been shown that the problem arises as a result of the failure of any of the company's assets. The company has not been shown to have breached any of its legislative duties or failed in its customer service.

#### Outcome

The company does not need to take any further action.

The customer must reply by 25 November 2019 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1582

Date of Decision: 28 October 2019

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

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

- He complained in 2017 to the company about water entering his garden at [ ] ("the Property").
- He states that leaks were identified but that the company failed to fix them.
- He states that much of the investigation carried out by the company over a substantial period of time was to no avail and the problem still remained.
- He claims that the company took further samples in 2019 and concluded that the problem was neither waste nor clean water ingress but groundwater.
- The customer states that he is unhappy with this conclusion and states that the presence of chlorine in earlier tests indicated the presence of clean water from a supply.
- The customer states that he has tried to pursue the option of asking the company for further action and investigation but this has not been undertaken by the company.
- The customer seeks the following resolution, that the company should make an apology, reimburse him £450 for work undertaken and £2,500 in compensation for inconvenience and stress.

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

- The company accepts that the customer contacted it with emails and video on the 11<sup>th</sup> May 2017 to complain of an alleged leak at the Property.

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- The company states that it has spent a large amount of time on the problem raised by the customer.
- It states that the neighbour was constantly running a hose and that this was stopped.
- It states that the final conclusion was that the water was surface water/
- The company states that it has fully complied with its duties in relation to the customer's complaint.
- It states that the apology is disputed as it has spent vast amounts of time dealing with this matter.
- It disputes the reimbursement and compensation sought as it states that the issue was found not to be the responsibility of the company.

**In reply the customer states:**

- The customer notes that certain communications made before May 2017 are not in the company records.
- The customer questions the evidence regarding the neighbour's responsibility for the ingress.
- The customer emphasises the loss and inconvenience suffered by him as a result of the company's actions.

**The company states:**

- It does not have the notes referred to regarding communications prior to May 2017.
- It states that due to GDPR regulations it cannot release the information regarding the neighbour's water usage.

**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. For clarity, this is an evidence based process and my decision has been made on the basis if the evidence submitted by the parties.
2. The customer states that he contacted the company on 1 February 2017 regarding the water ingress at the Property. He states that it took the company until 2019 to conclude that the problem was not the responsibility of the company. The company states that it carried out all proper procedures and that it is satisfied with the outcome of the investigations it has undertaken.
3. The company does accept that the process was lengthy. I refer to the email sent by [ ] for the company to the Consumer Council for Water ("CCRC") at page 233 of the CCRC papers. The company states that there was a long process of elimination to be carried out and also invites the customer to seek an investigation by the insurance company if his is not satisfied.
4. I note here that the submissions on the timeline are lengthy and I do not propose to rehearse events again in this decision. Suffice to say that I have taken into account all the main points made by the two parties and that I have referred to what I consider to be the most important factors in the application and defence in coming to a decision.
5. The customer complains that the amount of time taken by the company to ascertain the cause of the problem was too long. The company responds by stating that although it was a long process that this was necessary to exclude all possibilities.

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6. The company defence, which runs to over 30 pages of communication notes spanning the period between 2017 and 2019, indicates to me that the company has been actively dealing with the issue for the full period of the complaint.
7. The customer states in his application, “...*the investigations were ongoing and repeated.*” He also states that there were numerous actions undertaken by the company and himself. I find that this persuades me that there was a sustained attempt to resolve the cause of the problem by both parties.
8. The customer states that for “many months” there was an assumption that the problem was caused by a misuse of water in a neighbouring property. I note that in an early correspondence in the CCRC papers at page 5, it is noted as early as 9 June 2017 that the cause of the water ingress was thought to be a private leak in the neighbouring property. I do accept that the customer was under the impression that this was the situation for some considerable time.
9. The customer seeks to know what evidence there is regarding the neighbour’s property. The company has indicated that it is not free to divulge such information about a third party under the data protection laws. I accept their position is a correct interpretation of the privacy requirements.
10. The customer questions the final outcome of the company’s lengthy investigations. He queries the finding that the ingress is groundwater as he states that previous testing had shown chlorine. In considering this case I am making a judgement of the company’s adherence of its legal obligations. Further, I am looking at the customer service provided by the company. Where the company has made a professional judgement of a problem for which it has carried out numerous tests, I do not find that it is within the scope of my judgement to question that conclusion. That is, the main issue at hand is whether or not the company has satisfied legislative requirements and whether or not it has dealt appropriately with the complaint.
11. I accept the customer’s assertions that this ongoing problem has been extremely inconvenient and stressful. I note that he has had work carried out himself to resolve matters at the cost of £450 and this is evidenced by a receipt. I have to take into account that unless there is some fault on the part of the company, I cannot make a finding that will result in any remedies being ordered. Nonetheless, I do make the comment that I believe the actions of the customer and the

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conclusions he has come to are all made in good faith and that he and his family have been greatly troubled by the ongoing situation.

12. I note that the customer has involved third parties in an attempt to have the matter resolved. I take this as an indication of the strength of feeling on the part of the customer, which is understandable in the circumstances.
13. The customer states that the company should have put in place a draining system but the company has stated that it is not prepared to carry out such an action. This decision, given that I have not found any fault on the part of the company, is a matter for the company to decide. It is not something that the company is obliged to carry out in the circumstances.
14. I have not found that the source of the problem can be shown to be connected with an asset belonging to the company. On this basis I do not find that the company bears responsibility for the issue at the customer's property.
15. The failure of the company to find a resolution that satisfies the customer, or to have come to a conclusion earlier, is not in itself evidence of fault on the part of the company. I note again here that there is a very detailed account presented in this case of numerous actions and communications that leads me to the conclusion that both parties were very engaged in this process.
16. It follows that I do not find that there is any case adequately made out against the company on the evidence presented and that this application fails.

#### **Outcome**

The company does not need to take any further action.

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## What happens next?

- This adjudication decision is final and cannot be appealed or amended.
  - The customer must reply by 25 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.
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A handwritten signature in cursive script, reading "J J Higgins", is displayed within a light green rectangular box.

J J Higgins, Barrister, ACIArb.

**Adjudicator**

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