

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1586

Date of Decision: 18 September 2019

Complaint

The customer's claim is the company provided poor service during a dispute concerning incorrect invoicing. The company incorrectly charged VAT on its bills and when payment was not received the company then passed the customer's details on to a debt collection agency, all of which led to inconvenience and distress. The customer is seeking the company to provide copies of its previous bills, issue correct bills going forward, provide an apology and pay compensation of £3,750.00 which comprises of £1,500.00 for the loss of time in dealing with the complaint, £250.00 for the company's failure to resolve the issue and pay £2,000.00 for the inconvenience and distress incurred.

Defence

The company admits there were errors that led to VAT being applied to the some of the customer's initial bills. The customer has been provided all copies of the bills issued and due to non-payment, the debt was correctly passed to a debt collection agency. A total credit of £310.00 has been applied to the customer's account in recognition of the failures in customer service and the company is of the view that no further sums are due. The company has not made any further offers of settlement.

Findings

I am satisfied that the evidence shows the company failed, when dealing with the customer's complaint, to provide its services to the standard to be reasonably expected all of which led to inconvenience and distress. Therefore, I direct the company to provide an apology and pay £350.00 to the customer.

Outcome

The company shall provide an apology and pay £350.00 to the customer.

- The customer must reply by 16 October 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 18 September 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company provided poor service during a dispute concerning invoicing, VAT and incorrect water charges.
- The company incorrectly allocated the customer as a non-household customer and charged for VAT. Furthermore, when this issue was raised the company provided poor customer service, all of which led to inconvenience and distress.
- The customer is seeking the company to provide copies of its previous bills, issue correct bills going forward, provide an apology, pay compensation of £3,750.00 which comprises of £1,500.00 for the loss of time in dealing with the complaint, £250.00 for the company's failure to resolve the issue and pay £2,000.00 for the inconvenience and distress incurred.

The company's response is that:

- The company admits there were errors that led to that led to VAT being applied to the some of the customer's bills as at this time the customer was deemed as a non-household customer due to the property being deemed as "mixed use".
- Since August 2019, the property is no longer deemed as "mixed use" and therefore the customer has been transferred to domestic account.
- The customer has been provided all copies of the bills issued and due to non-payment, the debt was correctly passed to a debt collection agency.
- With regard to the customer service the company has made a goodwill payment of £310.00 to cover any shortfalls in its service and is of the view that this sum adequately covers the customer for any inconvenience and distress incurred.

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 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 I have not considered it in reaching my decision.

How was this decision reached?

1. The dispute centres on whether the company when dealing with the customer provided poor customer service which led to inconvenience and distress. The company also has certain obligations in respect of its customer services as set out in OFWAT Guaranteed Standards Scheme and the company's own Guarantee Standards Scheme (GSS).
2. Since April 2017, a non-household customer only has a relationship with the company not the wholesaler. Therefore, if a non-household customer has an issue with their water supply or sewerage services, they have to approach the company, who is responsible to chase the wholesaler and try to resolve the matter. Accordingly, it must be borne in mind by all parties that within this decision I cannot find the company liable for something that only the wholesaler is liable for.
3. From the evidence put forward by the customer and the company, I understand the customer lives in a property which was formerly a farm which was converted into five separate domestic dwellings in 2008. The evidence shows that at that time there was, and still is, only one supply to the entire site. The main meter is invoiced to the customer and the remaining properties have private sub meters which are used to be able to deduct their individual consumption from the total consumption so that they can pay their individual share of the invoice. In July 2017, the

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customer contacted the company querying why they were being charged VAT as the property was solely domestic. As part of the company's checks it was found that the property for council tax purposes was registered as "mixed use". The company states that when a customer is showing as "mixed use", this would indicate the property is not solely domestic and has an element of commercial. Since April 2017, any customer registered as "mixed use" is charged as a commercial customer and therefore VAT is payable. The evidence shows that the company responded to the customer explaining that if the customer contacted the local council authority to request that their records were amended to show no "mixed use", then the company could request that the account was transferred to a domestic account.

4. On 5 December 2017, the customer once again contacted the company explaining that it was unacceptable for them to be responsible for calculating and collecting the charges from the other households. On the 8th December 2017, the company explained that for the various properties to be invoiced separately, they would each need to contact new connections within the Wholesaler who are responsible for the new connection process. This would allow the properties to all have individual meters and be charged separately. I understand that the customer contacted the Wholesaler on 15 December 2017 to request separate meters under the shared pipe replacement scheme. In the meanwhile, the customer was still being billed on a non-household basis and a new invoice was issued on the 29 January 2018. Between, 12 February 2018 and 7 June 2018, various discussions took place between the parties resulting on 7 June 2018 the VAT being removed from and the customer's account being rebilled to correct the charges excluding the VAT. At the same time, the company informed the customer that as the property was still considered as "mixed use" the customer would still be a non-household customer. On 3 July 2018, the customer was advised of the outstanding balance and the various charges on the invoices explained. The company states that no payment was received by the customer and therefore the company commenced its debt collection policy and the debt was passed to a debt collection agency for collection.
5. With regard to the customer's comments that the company should have not applied VAT to his invoices. I understand from the evidence that any customer registered as "mixed use" is charged as a commercial customer and therefore VAT is payable. On the balance of evidence, I find that I am persuaded that at the time of the customer's first complaint the position of the company was correct. The customer's property was considered as "mixed use" and customer considered a non-household customer. Whilst I sympathise with the customer, due to the presence of one meter supplying all the properties on the original farm the company would not be aware that these properties were domestic until the customer contact. The company admits that it should

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have removed VAT from the customer's account in the first instance and states that a credit for this service failing has been applied to the customer's account. The evidence shows that from August 2019, the customer's account has been transferred to a domestic account going forward so the VAT issue should not reappear. In light of above, I find that the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to VAT, however, I am satisfied that this aspect of the customer's claim has now been resolved and the company need to take no further action regarding the VAT charges.

6. I refer to the customer's comments regarding the debt collection agency. Between 12 February and 10 May 2018 various final demands and notices of action were sent to the customer as the customer had failed to make payment. I note the customer's comments that payment was not made due to the VAT error and disputes with the other property owners who are serviced by the same meter. However, this does not alleviate the customer's responsibility to pay any outstanding balance. Until the separate properties have their own water meter then any dispute regarding recovering monies from the other property owners is a private matter between the customer and the other property owners. I also note that there is a dispute concerning an additional £150.00 added to the customer's outstanding balance. The company states this additional sum was never levied, as had it been, the debt collection agency would have had to inform the company, which it has not. In compliance with OFWAT's guidelines on collection of debt, if no payment plan is in place with the company or full payment has not been received the company is entitled to report any late payment to the credit reference agencies and pass the debt onto a debt collection agency. In light of above, I find that it has not been proven that the failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to its debt recovery processes.
7. With regard to the customer's loss of earnings and loss of time dealing with the complaint, I find no sums are due. The customer states he took at least 100 hours to deal with the highlighted issues. Whilst I appreciate the customer's position, the customer has not provided any evidence to support the sums requested and accordingly, I find that this aspect of the customer's claim fails.
8. The company has certain obligations in respect of its customer services, and I find the customer has been adversely affected by the lack of information throughout his dialogue with the company. The evidence shows the company failed to respond promptly to the customer's requests regarding incorrect billing and VAT. I understand from the company's defence the customer was credited £310.00 compensation for some of these failings. However, after careful

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review of all the correspondence provided in evidence, I am not satisfied the company's credit of £310.00 is fair and reasonable in the circumstances to cover the complaint and any distress or inconvenience to the customer. I note that customer's comments that he was called a liar, however, I cannot find any evidence to support this allegation. Whilst I sympathise with the customer regarding the inconvenience, stress and disruption, I find on careful review of all the evidence his requested redress of £2,000.00 disproportional to merits of the claim. I am satisfied an appropriate sum bearing in mind the issues in dispute is £350.00 in addition to the sum already credited to the customer's account. Therefore, I direct the company to pay £350.00 to the customer to cover this aspect of the customer's claim.

9. The customer has requested an apology from the company. Having carefully considered the various correspondence put forward in evidence, I am satisfied the company has failed to provide its services to the standard one would reasonably expect. The company has not apologised regarding the poor service to the customer throughout their dialogue and I find the company is required to provide an apology with regard to the poor customer service given.
10. In light of the above, I find the customer has been proven the company failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to applying VAT to the customer's account. Furthermore, I am satisfied there have been failings with regard to customer service for which the customer has not been adequately compensated for. Therefore, I direct the company to pay £350.00 to the customer for failed to provide its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company shall pay the customer £350.00 and provide an apology.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 16 October 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 be closed.

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- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.



**Mark Ledger FCI Arb
Adjudicator**