



**Decision 016/2014/WD of the 19th June 2014
in virtue of the Malta Resources Authority Act (Cap. 423)
on the Complaint by Mr. Joseph Bugeja against ARMS Ltd and Water
Services Corporation**

I. Determination

Whereas

- I.A.** The MRA received a complaint by Mr. Joseph Bugeja (hereinafter to be referred to also as ‘the complainant’) on behalf of his wife, Ms Marisa Bugeja, and regarding a high water bill at a property situated at “Mafran” 26, Triq Oliver Agius, Attard.
- I.B.** This complaint was submitted following MRA Decision 015/14/WD of 21st April 2014 and which was determined as a consequence of a first complaint submitted by complainant and dated 13th March 2014.
- I.C.** MRA took note of the complaint and investigated the matters raised in it.

II. Considerations

II.A. Facts

- 1.** The facts of this Case are outlined in the attached document entitled *Review of Dispute between Mr Joseph Bugeja (Account No 411000033022) and ARMS Ltd / Water Services Corporation*” and dated 3rd June 2014.

II.B Assessment

- 2.** The Authority took note of the submissions presented by the complainant outlined in the attached document entitled “*Review of*

Dispute between Mr Joseph Bugeja (Account No 411000033022) and ARMS Ltd / Water Services Corporation” and dated 3rd June 2014.

3. The Authority also took note of the abovementioned Report and the observations and considerations raised therein.

III. Decision

4. **Following a careful assessment and consideration of the submissions made by the complainant and the Report entitled “*Review of Dispute between Mr Joseph Bugeja (Account No 411000033022) and ARMS Ltd / Water Services Corporation*”, the Malta Resources Authority:**

- (i) hereby determines that the consumer is responsible for:
 - (a) the maintenance of the consumer’s water distribution system,
 - (b) any leakages within such internal plumbing systems;
 - (c) payment of registered water consumption;
- (ii) hereby determines that the Water Services Corporation was correct in its conclusions as stated in its letter dated 29th April 2014;
- (iii) determines in favour of the Water Services Corporation in this case.

Ing James Camenzuli
Chairman



MRA Reference: MRA/WAT/8/2014

3rd June 2014

Review of Dispute between Mr Joseph Bugeja (Account No 411000033022) and Water Services Corporation

1. Introduction

The Malta Resources Authority received notice for an independent review from Mr Joseph Bugeja by email dated 21 May 2014 regarding a decision taken by the Water Services Corporation (WSC) to a claim related to a high water bill at a property situated at “Mafran” 26, Triq Oliver Agius, Attard.

This request for review of the dispute followed:

1. A Review of a Dispute carried out by MRA, which dispute was raised by Mr Bugeja against ARMS Ltd / Water Services Corporation by email dated 13 March 2014, and was concluded on 3rd April 2014;
2. MRA Decision 015/2014/WD of 21st April 2014 on the Complaint raised by Mr Joseph Bugeja against ARMS Ltd and Water Services Corporation;
3. WSC’s letter dated 29th April 2014 wherein the WSC concluded that the claim raised by Mr Joseph Bugeja was unjustified and claimant was requested to pay all outstanding dues.”

In his email to the Authority of 21st May 2014, Mr Bugeja stated:

“The undersigned has received letter dated 29 April 2014 by Water Service Corporation via email dated 12 May 2014 from MRA.

It is the undersigned’s considered opinion that the so called investigations by WSC’s Advisory Board are evidently hasty in nature without sufficiently analysing the facts. Hence, the undersigned cannot agree with the conclusion put forward by the same Board.

The main reasons for such disagreement are the following:

1. *Comparing the historical water consumption of the property in question when such property was still occupied by my wife’s parents (until December 2011) and even the consumption when such property was handed over to my wife (meter reading on 16/12/2011 was 1534*

and actual meter reading on 26/03/2012 was 1537), is evident enough that the alleged consumption of 259 cubic metres is totally illogical. See attached spreadsheet provided by ARMS Ltd.

- 2. Second consideration which the Advisory Board seems not to have considered is the fact that the said property was not resided in between the period December 2011 till September 2013. Indeed during this same period there were two instances whereby no actual meter reading could be taken since premises were closed (1 October 2012 and 11 April 2013). Therefore, the alleged consumption of 259 cubic metres could definitely not have been due to any resident within the property.*
- 3. During August 2013 an old bathroom was completely replaced with a new one. If one were to suppose that there was a leak in this old bathroom which would have been automatically rectified as a result of the installation of a new one, the WSC technician who attended the premises could have never identified the leak and that inherently has dismissed the contestation without giving fair judgement to the case. Attached see photographs of old and new bathroom together with receipts of new bathroom.*
- 4. Indeed, the Advisory Board does not mention that the same WSC technician who visited the premises stated in his report that "most probably the leak was from the flushing system. New Bathroom installed recently. Premises were closed during the leak." So I fail to understand how the Advisory Board has opted not to mention this statement and unilaterally conclude that there were no leaks. See copy of WSC technician report.*

From the above it is clear that the Advisory Board has summarily dismissed the case in favour of Water Services Corporation and not having given any due consideration of the facts.

In this perspective, the undersigned solicits the Authority's intervention with a view to assess all the facts and thus consequently decide in favour of the consumer."

Mr Joseph Bugeja submitted the following documentation together with his email of 21st May:

1. Photographs of old and new bathroom which are claimed to relate to property in question;
2. Receipt for purchase of a new bathroom;
3. Copy of WSC's technician's report dated 16th November 2013;
4. Excel file showing water consumption at premises and which is noted as having been provided by ARMS Ltd.

2. Background

The Authority noted the documents and reasons submitted by the complainant for disagreement with WSC's decision.

By email dated 22 May 2014, the Water Services Corporation and ARMS Ltd were requested to submit any additional documentation and information which they consider relevant for the MRA to take cognisance in considering this dispute.

No further submissions were provided by WSC and ARMS Ltd.

2.1 Claimant's Submissions

Mr. Bugeja's claim and complaint are therefore summarised as follows:

1. *"...investigations by WSC's Advisory Board are evidently hasty in nature without sufficiently analysing the facts"*
2. *"Comparing the historical water consumption of the property when such property was still occupied..... the alleged consumption of 259 cubic metres is totally illogical."*
3. *".... property was not resided in between the period December 2012 till September 2013.Therefore, the alleged consumption of 259 cubic metres could definitely not have been due to any resident within the property "*
4. *"During August 2013 an old bathroom was completely replaced with a new one. If one were to suppose that there was a leak in this old bathroom which would have been automatically rectified as a result of the installation of a new one, the WSC technician who attended the premises could have never identified the leak considering that he attended on the 16 November 2013. "*
5. *"... the Advisory Board does not mention that the same WSC technician who visited the premises stated in his report that "most probably the leak was from the flushing system. New bathroom installed recently. Premises were closed during the leak....."*

3. Considerations and Review Procedure

In the course of this Review, the following documents were further examined:

- (i) Correspondence between both parties;
- (ii) A breakdown of water readings submitted by ARMS Ltd for the period 16 December 2011 to 3 March 2014;
- (iii) the Customer Contract;
- (iv) Water Supply Regulations which establish the applicable water tariffs and other provisions related to metering and testing of water meters;

- (v) Decision 015/2014/WD of the 21st April 2014 in virtue of the Malta Resources Authority Act (Cap 423) on the complaint by Mr Joseph Bugeja against ARMS Ltd and Water Services Corporation.

On the basis of the complaint received, the principal issues that are being contested are:

1. whether the registered water consumption and the water bill received by the consumer for the period April 2012 to September 2013 are correct or otherwise;
2. whether the consumer is to be held responsible for payment of the registered water consumption or otherwise.

4. Review's Considerations

This Review took note of the considerations listed in the Review of the Dispute between Mr Bugeja and ARMS Ltd / Water Services Corporation and dated 3rd April 2014 and subsequent submissions by all parties including the following facts and documentation:

1. Mr Bugeja filed his first complaint regarding a suspected faulty meter / high water bill on 27th September 2013.
2. ARMS Ltd initiated investigations into this case following consumer complaints, and on 6th November 2013 ARMS Ltd informed Mr Bugeja that since he was contesting the high water consumption, he could request meter testing against payment of a fee of €11.65.
3. The Water Supply Regulations provide for testing and verification of water meters if consumer considers that such water meters may be defective. No requests for testing and verification of the water meter were submitted by Mr Bugeja during the period September 2013 – March 2014 as permitted by Regulation 22 of the Water Supply Regulations.
4. The WSC's Surveillance Technician investigation was carried out on 16th November 2013. No leakages were detected by the WSC in the course of its inspection of the premises. The WSC Surveillance Technician's report stated that no leakage was detected within the premises and it was reported that:

"At the moment no leaks were found. Most probably leak from the flushing system. New bathroom installed recently. Premises was (sic) not used during the leak."
5. ARMS Ltd reached the conclusion that the high water consumption for the period was due to leakage in the flushing system on the basis of this assumption.
6. This point seemed to have been originally accepted by Mr Bugeja in his email dated 12 December wherein he stated that:

".... (omissis) it is evident that the leak was inherently and automatically rectified as a result of the replacement of a bathroom within the property, a factor which was signalled in the report by the WSC technician who visited the premises. The fact that the meter reading has returned to normal is evidence of the fact that indeed there was unnoticed flow of water the cause of which was inherently resolved when the said bathroom was changed."

7. This point was then clarified by Mr Bugeja in his email dated 24 March 2014 wherein he stated that:

"It could well have been that the old meter was defective and as ARMS Ltd have stated the consumption has come back to normal. As seen from the WSC report, the old meter was not tested when the WSC technician visited the premises."

8. However in his response dated 21st May 2014, Mr Bugeja then stated that:

"If one were to suppose that there was a leak in this old bathroom which would have been automatically rectified as a result of the installation of a new one, the WSC technician who attended the premises could have never identified the leak considering that he attended on the 16 November 2013."

9. A water meter test was not requested or carried out on 16th November 2013.
10. Furthermore in the response dated 21 May 2014, Mr Bugeja stated that the bathroom was replaced in August 2013, i.e. before the date of the first complaint regarding a suspected faulty meter / high water bill on 27th September 2013.
11. Following the WSC Surveillance Technician's inspection of 16th November 2013, further water consumption continued to be registered in the premises such that up to 2nd March 2014, (when the meter was replaced), the water meter reading stood at 1,889 m³.
12. On 10th December 2013, Mr Bugeja wrote to ARMS Ltd requesting whether his case was being referred to the Advisory Board.
13. On 11th December 2013, ARMS Ltd advised Mr Bugeja that in view of the fact that no hidden leakage was detected and since high water consumption was presumed to be from a leaking flushing and his case could not be referred to the Advisory Board.
14. The water meter was changed on 2nd March 2014.
15. On 13 March 2014, Mr Bugeja submitted notice for review of dispute with ARMS Ltd and WSC based on the following :

- (i) that the matter was unilaterally decided by an official within ARMS Ltd and that his dispute was dismissed without giving fair judgement to the case and without referral to the WSC Advisory Board;
 - (ii) Claim with respect to the unexplainable high water bill received and that “no person/s has physically consumed the said volume of water”.
16. On 3 April 2014, the Review of Dispute was concluded by MRA Management and submitted to all parties.
17. On 21 April 2014, the Authority concluded its Decision 015/2014/WD in virtue of the Malta Resources Authority Act (Cap 423) on the complaint by Mr Joseph Bugeja against ARMS Ltd and Water Services Corporation. All parties were informed of this Decision by email dated 25th April 2014.
18. WSC stated by letter dated 29th April 2014, that the claim raised by Mr Joseph Bugeja was unjustified and claimant was requested to pay all outstanding dues.”

In the course of this Review, reference was also made to the Customer Contract, which states that:

“4.0 What are your fundamental obligations?”

1. You are responsible for maintaining what is termed as “your water distribution system”. This system comprises all of the pipes and fittings that belong to you and that are connected with the WSC supply meter.

Therefore, you are responsible for the maintenance of your water system to prevent any damage or failure which might affect the water quality and/or lead to internal leakages.”

(Customer Contract, Page 6)

“12.0 Defective Work

2. You are responsible for any consumption registered on your meter. It is therefore your responsibility to ensure that there are no internal leakages in your property. Extra care should be made on roof tanks and other water fittings, appliances and taps.

If you notice extraordinary high consumption call in a professional to assist you in locating the water-loss. We may offer this service at an extra charge.

High consumption resulting from internal leakages is still considered as water consumed by you which you still must pay for.

After having raised a claim as per Clause 9.0 part 2 and paid a deposit of €25, your claim will be investigated and may lead to the extra consumption being calculated at the preferential tariff.

Any rebate on internal leakage is only considered for residential consumption only and when the leakage is a hidden leakage. Such leakage rebate is based on the discrepancy in quantity between the average consumption and consumption during the leakage period."

(Customer Contract, Page 13)

The Customer Contract therefore clearly establishes that:

1. Any internal leakage is considered to be consumption by the consumer and for all intents and purposes it is the consumer's responsibility for payment.
2. All the internal plumbing system within the premises, "consumer's water distribution system", is the responsibility of the consumer and under no circumstances can the WSC be held responsible for any leakages within such internal plumbing systems.
3. WSC's responsibility is limited up to the consumer water meter.
4. The consumer's obligations with respect to the consumer's water distribution system are clearly delineated as follows: *"all of the pipes and fittings that belong to you (the consumer) and that are connected with the WSC supply meter."*
5. The general principle is that each party is responsible for his own actions and upkeep of his own property and assets. The maintenance of the consumer's water distribution system should rest on the owner of such systems. Consequently any leakages which may occur from such consumer's water distribution systems are not the WSC's responsibility.

5. Review's Conclusions

On the complaint and claims submitted by Mr Bugeja, this Review concludes that:

1. Mr. Bugeja's claim, that no person/s had physically consumed the said volume of water and that the alleged consumption of 259 cubic metres "is totally illogical", is rejected based on the following:
 - (a) unless proven otherwise through confirmation that water meter was defective, any consumption registered by the water meter, whether such water consumption is a result of leakage or actual consumption, is, for all intents and purposes, considered as water consumption by the consumer.

Mr Bugeja failed to request testing of the water meter and failed to request verification whether such water meter was defective. In view of such failure on claimant's part and in the absence of proof that such water meter was in fact defective, consumer remains responsible for the water consumption registered by such water meter.

- (b) the submissions made by the claimant that:
- (i) the premises in question were not inhabited between December 2011 and September 2013 and
 - (ii) the bathroom was replaced and the date of installation of the new bathroom at the premises were indicative facts that any possible leakage in the old bathroom could have been rectified following the installation of the new bathroom, also since such installation pre-dated the WSC's Technician's visit;

are factors which are considered irrelevant to the issue of registered water consumption and the responsibility for payment of such consumption.

Such facts and/or hypothesis i.e.:

- (i) the habitation or otherwise of the premises, and/or
- (ii) potential leakage, at any point in time, from any part of the consumer's water distribution system including but not limited to the old bathroom;

do not exonerate the consumer from his responsibilities and obligations for:

- (i) the maintenance of the consumer's water distribution system,
- (ii) any leakages within such internal plumbing systems and
- (iii) the responsibility for payment of registered water consumption.

2. The Water Services Corporation was correct in its conclusions as stated in its letter dated 29th April 2014 and finds in favour of the Water Services Corporation.