

**Selected Case Summaries
(1994/95)**

WATER SUPPLIES DEPARTMENT (WSD)

***Case No. OCAC 73/94**

Complaint against the WSD - overcharging a water supply account as a result of the department's reading the wrong water meter - unreasonable refusal of refund

Madam A has been the tenant of the 4th floor of a building for over 20 years. The flat is owned by Company B which is also the registered consumer for water supply to both the 4th and 5th floors of the building. In March 1994, Madam A reported to the WSD that the water charges for her premises were unreasonably high. Subsequent investigations revealed that this was caused by the wrong connection of the water meter for the 4th floor to the supply of the 5th floor, and vice versa for the 5th floor meter. She requested the WSD to rectify the discrepancy and demanded that the overpaid charges over the years be refunded to her. Her request was, however, turned down by WSD on the ground that she was not the registered consumer. Feeling aggrieved, she complained to this Office against the WSD for its negligence in reading the wrong water meter, thus causing her financial loss and inconvenience, and unreasonably refusing to refund to her the overpaid water charges when the problem came to light.

According to WSD, in case of wrong meter arrangement, if both premises are in the name of the same registered consumer, any credit balance after adjustment on one account will be used to offset any debit balance on the other account. After checking by WSD, the wrong meter arrangement was confirmed. It was suspected that this occurred ever since the water supply to the two floors was first connected in 1968.

The WSD explained that wrong meter arrangement could not easily be uncovered during routine visits by WSD's meter readers unless a thorough inspection of the inside service was conducted. This Office believed that Madam A, though not the registered consumer, was the actual person who paid the water charges over the years. She had indeed suffered inconvenience and financial loss as a result of the wrong meter arrangement.

WSD normally keeps records of an account for six years in line with the Limitation Ordinance. As a result of the wrong meter arrangement, the 4th floor account serving Madam A's premises had been overcharged by some \$4,400 over the past six years whereas the 5th floor account had been undercharged by the same amount. Normally, the WSD only deals with the registered consumer who has a contractual relationship with the department for the account held in his name. Since Madam A is not the registered consumer and the WSD has neither overcharged nor undercharged the registered consumer i.e. Company B for the 4th floor and the 5th floor accounts when taken together, the WSD did not agree that a direct refund should be made to her. However, the department would consider other channels of refunding Madam A.

This Office saw that there might be contractual complications for a direct refund to Madam A because she is not the registered consumer. However, WSD has a moral, if not legal, obligation to have the overpaid water charges, for the past six years in view of the Limitation Ordinance, refunded to Madam A since the overpayment was caused entirely by a mistake of the WSD. The policy of offsetting the debit against credit balances in the accounts of the same registered consumer is clearly for the sake of the department's administrative convenience, and would only work with the cooperation of Company B in this case.

This Office also noted that the WSD had once requested Madam A to submit all past water bills in order to prove that she was in fact the one who paid the water charges, although this requirement was subsequently withdrawn by the Department.

This Office concluded that Madam A's grievance was justified and this complaint was partially substantiated. As for remedy, this Office considered that she should be refunded the overpayment made by her as an exceptional case. The WSD accepted this Office's findings and conclusion.

This Office was pleased to note that Company B had arranged payment of the undercharged amount to the Water Authority and the WSD had refunded the overcharged amount to Madam A in November 1994.