

Your TDS guide to:



Case studies on disputes involving agents fees



Tenancy Deposit Scheme

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Tenancy Deposit Scheme

Case studies on disputes involving agents' fees

- Here are some case studies from TDS on disputes involving agents' fees. We hope that you will find them informative and helpful in deciding if you want to proceed with sending a dispute to us.
- This document is for guidance only – it is not intended to guarantee when an award will be made.
- Each dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us.
- Please read this document together with our guide on “How TDS approaches disputes involving agents' fees”.

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These case studies show how we might reach different conclusions on claims for agents' fees, depending on the evidence presented by the parties to the dispute.

The landlord claims against the deposit for the check out fee, saying the tenant is liable to pay the fee at the end of the tenancy.

To support the claim the agent presents:

- a copy of the tenancy agreement;
- a copy of the agents' standard terms and conditions (unsigned)
- a copy of the 'check in' report and schedule of condition
- a copy of the 'check out' report that identifies discrepancies between 'check in' and 'check out'.

The tenant objects to the agent's claim. They say they do not think the check out report was fairly completed. They also claim that they were not aware that they had to pay the check out fee from the deposit.

The adjudicator finds that the tenancy agreement does not set out that the check out fee must be paid by the tenant(s). The terms & conditions supplied refer to the check out fee but are not signed by the tenant. It is not clear that the tenant was ever given them. The adjudicator cannot assume that they formed part of the contractual obligations agreed to by the tenant.

In these circumstances we are unlikely to make an award to the agent

The agent claims for fees due from the tenant at the end of the tenancy for finalising the agreement.

To support the claim the agent presents:

- a copy of the tenancy agreement confirming those deductions that can be claimed from the deposit;
- a schedule of fees attached to the tenancy agreement signed by the tenant.

The tenant objects to the agent's claim. They say the fee was not disclosed to them and they do not see why they should pay anything.

The adjudicator finds that the tenancy agreement in this case sets out clearly that the tenant must pay a finalisation fee, and that this is to be paid to the agent. The agreement specifies the fee will be a specified percentage of the monthly rent with a minimum fee of £50.00 + VAT. The tenancy agreement also contains clauses that allow for the fee to be taken from the deposit. In addition, the schedule of fees was signed by the tenant at the start of the tenancy. In these circumstances we are likely to make an award to the agent.

The agent claims for fees due from the tenant at the end of the tenancy for their administration charges for arranging contractors to clean the property

To support the claim the agent presents:

- a copy of the tenancy agreement;
- a letter to the tenant at the end of the tenancy summarising proposed deductions from the deposit including the administration fee

The tenant does not dispute that the property needed cleaning, but objects to the agent's claim for an administration fee for arranging it. They say the fee was not disclosed to them and they do not see why they should pay anything.

The adjudicator is satisfied that the tenancy agreement sets out that an administration fee will be charged by the agent. However, the agreement does not specify what the fee will be. Also, the deposit clauses do not include reference to fees as an allowable deduction from the deposit.

In these circumstances we are unlikely to make an award. The tenancy agreement does not permit a fee to be deducted from the deposit

In summary:

- **Does the tenancy agreement detail what the fees are for, when they apply, and how they are calculated?**
- **Does the tenancy agreement confirm that they can be taken from the deposit?**
- **Does the evidence presented show that the fee can be paid direct to the agent?**
- **Does the evidence presented confirm that the fee has been correctly incurred?**