



Adjudication Digest No1/2012

- The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind the decision.
- The aim of these Digest reports is to help tenants, landlords and agents better understand how we make our adjudication decisions.
- The names of the landlords and tenants involved have been removed and this is only a brief summary of the dispute.

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.

Amount of deposit in dispute: £400.00

Dispute initiated by: Tenant

Award made:

Tenant £400.00

Landlord £ 0.00

Agent £ 0.00

Now you see it, now you don't...

This month's case study highlights the need for an accurate and complete record of the condition of the property at the beginning and end of the tenancy. Properly completed check in and check out reports will be essential to any adjudicator when dealing with an adjudication regarding dilapidations.

In this case the tenants raised a dispute after a 2 year tenancy, about the landlord's claim for the full amount of the deposit for various items in need of repair. The inventory and check in report was completed by the agent, but was vague about the condition of items, saying only that they were "clean, bright and fresh unless otherwise stated". There was no record of whether decorations, fixtures, fittings and furnishings were new for the start of the tenancy, nor was it clear that the property was professionally cleaned throughout. There were no photographs taken which might have helped the adjudicator to compare the items in disrepair at the end of tenancy.

The parties agreed that the landlord had made an inspection of the property and issued the tenant with a list of items that needed putting right. The landlord claimed that the works were necessary to return the property to the check-in report.

The evidence presented to TDS did not include any check-out report to support the claim. The agents submitted what could only be described as a 'statement of claim' following the landlord's visit prior to checkout. Although this list included amounts to be deducted from the deposit for making good, no estimates or quotations were provided. The tenant claimed that the items claimed for had been put right before he left the property, which the landlord and agent denied.

Although many photographs were taken during the landlord's visit these were of limited use without similar photographs taken at the start of the tenancy – or without a more detailed check in report, against which a comparison could be made.

The adjudicator took the view that he could not be certain about the condition of the items claimed for at the start of the tenancy. Given the length of the tenancy, the expected level of wear and tear that would otherwise have occurred, and with no further evidence to confirm the exact state in which the tenant left the property after the landlord's visit, the adjudicator could not conclude with any certainty that the tenant had failed to meet his obligations.

Following the adjudication the agents produced a check-out report, albeit one that was not signed by the tenant. This report had not previously been referred to by any of the parties before the adjudication was completed.

TDS can only adjudicate based on the evidence submitted by the parties. We are not able to seek further evidence to support one or other party's case. It is up to the parties to present their claim in full including any relevant information they want the adjudicator to consider.

So what are the key points here?

- Produce clear, concise and accurate inventory and check in/out reports – ideally signed by the parties. We can still consider an unsigned document but will want to see, for example, that a tenant was sent a check in report and given the opportunity to agree its content.
- The adjudicator will still consider reports that are not from independent inventory clerks – but are likely to place less weight on their contents. A landlord will need to need to produce more evidence than his/her word alone, to establish the property's condition.
- For more information our approach to inventories, check in and check out reports, and photographs, see our [Guide to deposits, disputes and damages](#)

Contact details

Tenancy Deposit Scheme

PO Box 1255

Hemel Hempstead

Herts

HP1 9GN

Tel: 0845 226 7837

Fax: 01442 253 193

Email: member.relations@tds.gb.com

Web: www.tds.gb.com

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