



Tenancy Deposit Scheme

## **Adjudication Digest**

### **No 10/2014**

## **Coughs and sneezes.....**

- The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind it. We hope that you will find these digests informative in understanding how we reach our adjudication decisions.
- 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.

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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.

## Coughs and sneezes .....

<b>Amount of deposit in dispute:</b>	<b>£ 500.00</b>
Dispute initiated by:	Landlord
<b>Award made:</b>	
Tenant	£ 0.00
Landlord	£ 500.00
Agent	£ 0.00

This month's case concerns a high value claim for the cost of cleaning a property in unusual circumstances. Shortly after the beginning of the tenancy one of the tenants was diagnosed as having tuberculosis. The agent states that at tenancy end they contacted the local authority who recommended that the house was given a specialist deep clean. The agent's evidence included a 'Sales Order Form' referring to such a clean at a cost of £895.00 plus VAT (£1,074.00). The evidence from the tenants included a letter confirming that although one of them did indeed have tuberculosis when living at the property, they thought the cost of cleaning was excessive. They also argued that it was not their fault that they became ill.

In this particular case the dispute also included claims for damage. The adjudicator was satisfied that they were justified. The clauses in the tenancy agreement set out that the deposit was to be used for damage first of all. Thus, the adjudicator had made an award of £380.00 from a deposit of £500.00, for the damage caused to the property. This left a balance of £120.00 available for the cleaning claim.

The first issue that the adjudicator had to consider was whether the tenant had breached the terms of their tenancy. There was no dispute that the tenant had tuberculosis. The tenancy agreement required the tenant to return the property in the same cleanliness as at the start of the tenancy. Because of the serious nature of what is acknowledged to be a communicable disease the adjudicator decided that an award in the landlord's favour for specialist cleaning was justified.

The adjudicator next had to consider what a reasonable sum to award would be. The adjudicator noted the tenants' concerns about the cost of cleaning, but was satisfied that the cost of cleaning the property was at least equal to the remaining balance of the deposit (£120.00). The adjudicator therefore awarded this to the landlord, meaning that in total the landlord received the deposit in full.

## So what are the key points here?

- The adjudicator is only able to make decisions about claims against the deposit. Because the landlord was at least entitled to the deposit in full, it was not necessary in this case for the adjudicator to decide whether the amount of the cleaning claim was justified in full. If the landlord wanted any further sums from the tenant over and above the value of the deposit, they would need to pursue this through the Court.

- Had the adjudicator not made awards (or not awarded as much) for the damage claims, the landlord may still have received the deposit in full as it is likely that the adjudicator would have considered the specialist cleaning of a complete property to at least equal £500.00.
- The agents had understood that TDS could only award up to the deposit, but had been careful to spell out that the total claim exceeded this. This was important because had they limited the cleaning claim to, say, £120.00 (so that the total claim exceeded the deposit) and the adjudicator awarded less for the damage claim than £380.00, the adjudicator could only award up to £120.00.