



Tenancy Deposit Scheme

Adjudication Digest

No 03/2013

Down in the weeds.....

- 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.

tel: **0845 226 7837**

fax: **01442 253 193**

email: deposits@tds.gb.com

www.tds.gb.com

Tenancy Deposit Scheme, PO Box 1255, Hemel Hempstead, Herts, HP1 9GN

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.

Amount of deposit in dispute:	£ 200.00
Dispute initiated by:	Landlord
Award made:	
Tenant	£ 50.00
Landlord	£ 150.00
Agent	£ 0.00

Down in the weeds....

The landlord claimed £200.00 for gardening because the gardens were overgrown at the end of the tenancy. The tenants argued that they maintained the gardens to a reasonable standard.

The tenants argued that they were not obliged to trim the high hedges and ivy on the basis it would have required hiring specialist gardening equipment which they were not contractually obliged to do.

The landlord said that his claim did not include the high level conifers/ trees or ivy at the property, and only related to the general maintenance of the gardens including the grass, borders, rockery, gravel path, small bushes and hedges. He produced a garden maintenance invoice dated three weeks after the tenancy ended, which did not include trimming any high level hedges or ivy.

The check-out report stated that both the gardens needed work at the end of the tenancy; however the check-in report did not show their condition or include a general statement to the effect that the property was in a good condition unless otherwise stated.

The landlord had however produced dated photographs for the start of the tenancy, and two weeks after it ended in the summer, which were not objected to by the tenant. A comparison of these showed that the condition of the gardens was worse at tenancy end.

The adjudicator was satisfied that the tenancy agreement required the tenants to maintain the gardens during the tenancy. The evidence presented showed that additional gardening was needed to the gardens to return them to their condition at check-in.

However the adjudicator did not consider that the landlord was entitled to the full amount claimed. The work involved was undertaken three weeks after the end of the tenancy, during which time further growth to the garden would have occurred. In order to reach a reasonable compromise and to allow for the additional growth that could not be attributed to the tenant, the adjudicator awarded £150.00.

So what are the key points here?

- In this case, the landlord had sufficient photographic evidence to confirm the condition of the property at the start of the tenancy. Without it, his claim might have failed. Make sure that check in and check out reports detail clearly the condition of the property. It can also be helpful to include a general statement that the property is in a particular condition unless otherwise stated.

- Part of this dispute related to confusion about what the landlord's claim was for, and what the tenants in turn were responsible for. A clearer dialogue between the parties before the case was referred to TDS may have helped matters. One of the tenant's principal arguments in their favour did not in fact relate to a claim that was actually being made by the landlord.
- It can be difficult for adjudicators to gauge the condition of gardens from words alone – photographs showing an overview of a garden at check in and check out can be very useful.
- As with all evidence of condition, make sure that the evidence you produce is timely. The evidence needs to capture the condition of the property at the time the tenant took on, and gave up, the property – not some weeks later.