



## Case Studies

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Tenants	Agents	Landlords

Insured / Custodial

# Adjudication Digest August 2011

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:** £350.00

**Dispute initiated by:** Tenant

<b>Award made:</b>	<b>£350.00</b>
<b>Tenant</b>	<b>£0.00</b>
<b>Landlord</b>	<b>£350.00</b>
<b>Agent</b>	<b>£0.00</b>

TDS receives many claims for outstanding rent arrears, and the evidence we get sent to support them also varies considerably. Adjudicators will have to look at the merits of each case to see how persuasive that evidence is.

In this case the tenant raised the dispute, and claimed she was unaware of any arrears on her rent account as Housing Benefit payments to cover the shortfall in her rent were being made directly to the landlord by the local authority. She did not produce any other evidence to confirm what payments had been made or when.

The landlord represented himself and did not have a managing agent. He submitted a copy of an email sent to the tenant detailing the arrears on the rent account which covered the last 6 months' payments. This showed that the rent had not been paid regularly or in full. However the email itself only referred to those particular payments and did not detail all rent payments received throughout the tenancy. The landlord did not produce any other evidence to show what rent was received or when.

The adjudicator considered that the landlord had not himself provided sufficient evidence, such as a full statement of the rent account, to show the rental history for the tenancy. The landlord's email could be considered a statement of claim, rather than a statement of account or rent statement.

However, the tenant did not appear to dispute that the payments she herself made did not cover all the rent. Her argument was that there was a shortfall, but that this had been paid by a third party – in this case, the local authority. However the tenant did not provide any further evidence to confirm that this was what had taken place. As the person putting forward the argument that the debt had in fact been paid, it was for her to put forward evidence to support that claim. As it is not for the adjudicator to investigate or look for further evidence, the adjudicator decided in favour of the landlord. In essence, the tenant had conceded that there was a shortfall in rent, but not provided sufficient evidence to show that shortfall had been met.

This was an interesting case, and shows the difficulties adjudicators often face in assessing the finer points of the evidence submitted. But for the poor defence put forward by the tenant, the landlord's claim in itself might have failed.

## **So what are the key points here?**

Where the dispute concerns rent arrears, account statements and/or bank statements which show arrears outstanding are important; without this sort of evidence the adjudicator will struggle to confirm whether there were any arrears. These should clearly show the property and person to whom the account relates. Where arrears have arisen, it is also useful for the adjudicator to see evidence that the tenant has been told about them, and has been given the chance to comment on them. Ideally rent statements should show:

- the rent due date;
- the amount of rent paid;
- the dates the monthly rent payment relates to;
- the date the rent payment was received;
- the amount of rent due;
- the outstanding total balance.

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 **[www.tenancydepositscheme.com](http://www.tenancydepositscheme.com)**

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