



Case Studies

Who should read this?

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Tenants	Agents	Landlords

Insured / Custodial

Adjudication Digest March 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.

Amount of deposit in dispute: £700.00

Dispute initiated by: Agent

Award made:	£700.00
Tenant	£400.00
Landlord	£300.00
Agent	£0.00

This month's case study focuses on re-decoration - after two harsh winters and extreme weather conditions, we have seen an increase in cases where mould has been a contributory factor. In this case the landlord wanted to keep the deposit because the decoration in the flat had been damaged by the mould that had occurred during the tenancy. The evidence presented to the adjudicator in the form of the check-in and check-out reports confirmed that this deterioration did happen.

The tenants acknowledged the fact that the mould marks were present and had agreed to pay for cleaning costs only. They felt it was unfair that they should pay twice – once for the attempted clean to the affected areas and again for the re-decoration. However, it was clear to the adjudicator that just cleaning the affected areas would not have been successful and therefore it was reasonable to award to the landlord redecoration costs. The burning question was how much to award.

The landlord had produced no evidence in the form of quotes or invoices to give a breakdown of the cleaning and treatment of the mould affected areas or the need for re-decorating. The landlord advised the agents that these were being obtained but they were not included in the evidence

submitted to TDS. In view of this the adjudicator felt that the amount sought was too high.

The adjudicator also had no evidence to show the age of the decoration or to confirm that the property was newly decorated at the start of the tenancy. The check in report also noted scuffs and marks to several areas of the property prior to check in. Taking these factors into account, the adjudicator made an award of £300 towards the cost of cleaning and redecoration.

In determining the amount of the award the adjudicator considered the decorative condition of the property at check-in, the length of the tenancy and the expected lifespan of any decoration. The adjudicator felt the amount awarded to be fair contribution towards the landlord's claim, in the absence of further evidence to justify the full amount asked for.

This was an interesting case and one where the outcome could have been different had further evidence had been submitted to support the claim.

So what are the key points here?

It is unreasonable for a landlord to expect the property to be returned in a better condition than at the start of the tenancy. To have awarded the landlord the full cost of redecoration would have meant the tenant would bear the cost of putting the property in a better condition than he received it. This is very common in redecoration claims and something that TDS sees regularly. Landlords should be realistic in the amount that is chargeable to tenants and remember that a rented property should be re-decorated every 3 – 5 years depending on the level of occupancy.

- Always submit illustrated costings in the form of detailed estimates, invoices or receipts to enable the adjudicator to see an accurate breakdown of the costs being charged for each type of work.
- Wherever possible when claiming for re-decoration it is essential in order to maximise the claim to prove when the property was last redecorated. Again in the form of documentary evidence which may mean “comments in the inventory – freshly painted/redecorated” or again an invoice showing what work was carried out when and at what cost.
- Send TDS all relevant paperwork that could support your claim.

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