

The Adjudicator takes a recent decision by a [Tenancy Deposit Scheme \(TDS\)](#) Adjudicator and sets out the reasoning behind the decision. The aim of these [case studies](#) 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.

### The Landlords Claim/Tenants Response

The landlord claimed £450 for the cost of a replacement sofa as a stain was apparent at the end of the tenancy, which the landlord said could not be removed by cleaning. An invoice for a replacement sofa was included in the evidence. The tenant admitted causing the stain during the tenancy but suggested that he was not responsible, as the sofa was new at the start of the six-month tenancy, and it should have been treated with a stain repellent.

### The Adjudication Process

The adjudicator had a choice of one of three remedies; making good ( for example cleaning or repair), a contribution towards replacement costs (making an allowance for [fair wear and tear](#)), or lastly, making a compensatory award to reflect the damage. The tenant's argument about the lack of stain repellent to the sofa when new was not a defence to the obligation to return the property and its contents in the same pre-tenancy condition (allowing for fair wear and tear). The check-in report recorded that the sofa was new. The check-out report recorded that the sofa was stained at the end of the tenancy. To support the claim, the landlord provided in addition to the written condition reports, a dated photograph taken at check-out showing the extent of the staining to the sofa.

### The Adjudicators Decision

The adjudicator was not persuaded that a claim for replacement of the sofa was appropriate, given the lack of severity and the relatively small size and location of the stain. As there was no evidence to show that an attempt had already been made to remove the stain by cleaning, but was unsuccessful, the adjudicator considered that the most appropriate remedy was to make an award for cleaning.

The landlord was awarded £365 of the initial £450 claim whilst the tenant was awarded an amount of £85.00 as this was felt to be fair and reasonable by the adjudicator when taking into account the size of the stain.

## Key points to take away?

- Landlords need to show that cleaning (usually the less costly remedy) has been attempted and was unsuccessful before an adjudicator can consider an award for either replacement or a compensatory award for loss of value either aesthetically, or a shortened lifespan.
- A third-party professional cleaning contractors report confirming that in their professional opinion, they do not consider cleaning would remove any stain, resulting in a permanent stain would be required in support of any landlord's statement. Both show that the landlord has considered the most economical solution – as they are duty bound to do so – before claiming more; an adjudicator can consider a claim for a failed attempt at cleaning supported by an invoice, as well as either a contribution towards the cost of replacing the damaged item, if justified, or a compensatory award.
- Tenants should make an amendment to a check-in report to record any discrepancies, such as stains to furnishings or any other damage that is present at the start of the tenancy, and ensure that you have a record of returning any amendments to the agent/landlord. Be careful to avoid spillages during the tenancy; however if an accident does occur, ensure that you report the damage to the agent/landlord - as you are duty bound to do so - and do not leave the stain to become permanently ingrained - act quickly to remove and treat the stain, taking professional advice where appropriate.

If you would like to learn more about this topic [Tenancy Deposit Scheme \(TDS\)](#) run valuable training courses in both tenancy deposit protection and tenancy deposit disputes in our brand new virtual [TDS Academy](#). Additionally, all course attendees will receive a certificate which can be used to gain CDP points.

Please [click here](#) to find out all the TDS Academy courses that are currently available to you.