

The Adjudicator takes a recent decision by a [Tenancy Deposit Scheme \(TDS\)](#) Adjudicator and sets out the reasoning for the possible deduction of tenancy deposits. The aim of these case studies is to help agents, landlords and tenants better understand how we make our adjudication decisions and what can be learnt from them. The names of the landlords and tenants involved have been removed and this is only a summary of the dispute in question.

The Landlord/Tenants Claim

During harsh winters and extreme weather conditions, there is an increased likelihood of mould/condensation issues arising in properties. In this case, the landlord wanted to keep the tenant's deposit because the décor in the flat had been damaged during the tenancy by mould; this needed to be wiped clean and repainted. The tenants acknowledged that mould marks were present at the end of the tenancy and had agreed to pay for cleaning costs but felt it was unfair that they should pay twice – once for the attempted clean to the affected areas and again for the re-decoration.

The Adjudication process

The adjudicator will look to see that the tenancy agreement placed an obligation on the tenant to return the property in the same condition as at the start of the tenancy, less fair wear and tear. The primary documents that will assist with this are condition reports for the start and end of the tenancy. The [check-in report](#) noted scuffs and marks to several areas of the décor in the property at the start of the tenancy. There was no evidence of any pre-existing mould. The check-out report clearly showed the presence of mould at the end of the tenancy and the landlords claim was justified for the cleaning of the affected areas and to some extent redecoration. In determining the amount of the award, the adjudicator considered the decorative condition of the property at check-in, which was not recorded as freshly painted; the length of the tenancy and the expected [lifespan of any decoration](#). The adjudicator felt that the claimed amount sought was high.

The Adjudicators decision

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 for re-decorating. Without evidence of the age of the décor, the adjudicator considered a contributory award be fair towards the landlord's claim for cleaning and redecoration.

Key points to take away?

- 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 2 – 5 years depending on the location in the property and the level of occupancy.
- It is useful to 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. It will not however necessarily follow that the full costs will be awarded.
- Wherever possible when claiming for re-decoration provide evidence of the date on which the property was last redecorated, in the form of documentary evidence for example, comments in the inventory – ‘freshly painted/redecorated’ or an invoice showing what work was carried out, when and at what cost.
- A tenant should report any issues, such as mould, as soon as they become aware of it and take steps to prevent its formation, such as wiping clean, leaving windows open.
- Send only relevant paperwork that could support your claim.

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