

## Tenancy Deposit Protection Adjudication Case Study Bulletin Fifteen: 15<sup>th</sup> June 2009

### ***Case Study One:***

The Tenants admitted the Landlords claim for arrears of rent, but disputed the claim for repairs. The Adjudicator found that the Landlords had substantiated their claims for some repairs, but did not allow the cost of replacing the bathroom extractor fan as this was part of the Landlords' obligations. The Tenants complained that the property was damp, but the evidence produced supported the Landlords' case that this was caused by condensation rather than structural damp.

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### ***Case Study Two:***

The Landlord claimed the sum of £400 from the total deposit of £1,100. This was to cover the costs of cleaning and repainting the property. The Tenant challenged the Landlord's assertions saying that on the advice of the Agents she had returned to the property to remedy matters drawn to her attention. The Adjudicator examined all the evidence and determined that the sum of £390 should be returned to the Tenant.

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### ***Case Study Three:***

The Landlord claimed the total sum of the deposit £890. This was to cover the costs of making good the walls and the woodwork and replacing the damaged shower tray and kitchen lino. The Tenant says that she thoroughly cleaned the house and renewed the paintwork. The Adjudicator examined all the evidence and determined that the sum of £382.50 should be returned to the Tenant.

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### ***Case Study Four:***

The Landlord claimed to be entitled to retain £80 out of the deposit of £700 for the following reasons:

The Tenant failed to clean the flat adequately at the end of the tenancy and the Landlord incurred a cost of £50 for cleaning; The Tenant caused a drawer in the freezer to be cracked during the tenancy, and the Landlord thereby suffered loss of £30.

The Tenant claimed that at the commencement of the tenancy the flat was not entirely clean, and the freezer drawer was already cracked, and alleged that the price of £50 claimed for cleaning costs was excessive.

Photographs and an inventory showed that the Tenant had failed to clean the flat to a good standard, as the tenancy agreement required. The Adjudicator held that the Landlord had actually and reasonably incurred a cost of £50 for cleaning, but that the freezer drawer was already cracked at the commencement of the tenancy.

The Adjudicator directed that £50 out of the deposit be paid to the Landlord, and the balance of £650 to the Tenant.

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### ***Case Study Five:***

The Tenant paid a deposit when entering into a tenancy agreement, but later found that his home was to be repossessed by the Landlord's mortgage lender. The letting agent who arranged the tenancy found the Tenant a new home, and suggested that the deposit be transferred to the new tenancy agreement. Before this was completed the Tenant lost his job and left the new property owing arrears of rent. The letting agent wanted to apply the deposit to the arrears on the new tenancy. The Adjudicator found that the deposit had not been transferred and directed that it be repaid to the Tenant.

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### ***Case Study Six:***

The Landlord sought to retain the entire deposit of £450.00 to contribute towards various losses and dilapidations. The Tenant sought the return of the sum in dispute.

The Adjudicator found that the Landlord's claim succeeded in part. The Adjudicator was prepared to find for some of the cleaning and damage to a bed. The other items failed, due to the absence of a check-out inventory and receipts/invoices.

The Adjudicator apportioned the deposit to £265.00 to the Tenant and £185.00 to the Landlord.

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### ***Case Study Seven:***

The Landlord sought to retain the sum of £60.00 to contribute towards decorating costs, asserting that the damage to the walls was in excess of fair wear and tear. The Tenant sought the return of the deposit.

The Adjudicator found that the sum of £60.00 should be returned to the Landlord. He reached this conclusion having regard to all of the submissions and documents supplied in this matter, including the check-in/check-out inventories/schedule of condition. The most powerful evidence was the photographic evidence provided by the Landlord, which appear to show the marks being in excess of fair wear and tear.

Accordingly, the sum claimed by the Landlord was reasonable i.e. a 50% contribution, and did not constitute betterment, and accordingly succeeded.

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### ***Case Study Eight:***

The Landlord was seeking to retain £1,781.25 out of the full deposit of £2,000.00 for 21 items. The Tenant felt that £500.00 was a fairer reflection for the items he should have to pay for.

Directing that £1334.75 be returned to the Tenant and £446.75 to the Landlord, the Adjudicator found that the Landlord had failed to make any allowances for fair wear and tear. Furthermore, some of the items being claimed were unsustainable in view of the evidence provided.

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### ***Case Study Nine:***

The Landlord claimed to be entitled to retain the whole of the deposit of £400 for the following reasons: a) The Tenant failed to pay rent of £400 due on 1st February 2009; b) The Tenant failed to pay arrears of rent of £23.04 accumulated between November 2008 and January 2009; c) The Tenant damaged carpets, linoleum and wallpaper d) The Tenant failed to return the keys of the property, and caused the Landlord to incur builders' charges of £395.

The Tenant asserted: That there was no damage to the property; The rent was paid in full and up to date; The Landlord had harassed the Tenant when she suffered from depression, stress and anxiety.

The Adjudicator found, on the balance of probabilities, that the rent of £400 due on 3rd February 2009 had not been paid and that the Tenant owed the Landlord rent up to the date when the property was re-let of approximately £465.

The Tenant had caused damage to the property and contents, and had retained the keys, and the Landlord had been obliged to incur builders' charges of £395.

The Adjudicator directed the return of £400 to the Landlord.

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### ***Case Study Ten:***

The Landlord claimed to be entitled to retain the whole of the deposit of £525 for the following reasons:

The Tenant entered into a tenancy agreement for a fixed term of 6 months from 17th June 2008 after inspecting the property, but changed her mind about a week later and made complaints about the condition of the property. The Landlord caused all necessary repairs and improvements to be carried out at the property, but the Tenant demanded the return of the deposit and the rent paid in advance, and returned the keys to the Landlord on or about 28th August 2008. The Landlord agreed to release the Tenant from the tenancy but claimed to be entitled to retain the deposit as rent and/or compensation for breach of contract. The Tenant alleged that the property was not fit for occupation, and that she was entitled to the return of the deposit. The Adjudicator found that, by keeping the keys for more than two months after the commencement of the tenancy, the Tenant had unequivocally affirmed the tenancy, and was liable for an additional one month's rent in the amount of £525. The Tenant was entitled to damages for breach of the Landlord's implied covenant for quiet enjoyment, assessed in the amount of £200.

The Adjudicator directed the return of £325 to the Landlord and £200 to the Tenant.

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### ***Case Study Eleven:***

The Landlord claimed for carpet cleaning and general cleaning, and relied on a Schedule of Contents and Condition signed by the Tenant at the start of the tenancy and an Exit Report signed by him at the end. The Tenant said that the carpets needed replacing and that some of the cleaning was necessary due to the Landlord's failure to carry out repairs, none of which was supported by the evidence. The Adjudicator accepted the documents signed by the Tenant and allowed the Landlord's claim. The Tenant was allowed to set off some expenditure that had been agreed with the Landlord.

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### ***Case Study Twelve:***

The Landlord claimed a payment from the deposit for cleaning and decorating, and produced an Inventory and Checkout Report in support of the claim. The Tenants accepted the Checkout Report, but said that everything mentioned in it was present at the start of the tenancy, and relied on the Inventory to establish this. A comparison of the two reports showed that some, but not all of the items in the Checkout Report were mentioned in the Inventory, and the Adjudicator allowed the Landlord a payment towards redecorating based on the new items.

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### ***Case Study Thirteen:***

After the Tenant gave notice to end her tenancy the Landlord realised he did not have a key to the property to allow him to show prospective Tenants around. He asked the Tenant for her key, but she did not make it available to him. The Adjudicator decided that the Tenant's obligation to permit the Landlord to enter the property with prospective Tenants was a passive one and did not extend to giving the Landlord her key or being at the property when he called. The Adjudicator did not allow the Landlord's claim for one month's rent.

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### ***Case Study Fourteen:***

The Agent sought to retain the entire amount in dispute to contribute towards (i) damage and cost of replacement sink and (ii) rent due to delay in returning the keys. The Tenant conceded the damage to the sink, but disputes the other amount. The Adjudicator found that the Landlord was entitled to the entire amount in dispute.

In relation to the sink, it was clear from the Tenant's concession that this should be returned to the Landlord. In relation to the rent, the Adjudicator found that the Tenant did have an agreed date at which to return the keys to the property, as contained in the tenancy agreement, contrary to his assertions. However, the Adjudicator was only prepared to allow for rent up until the date that the keys were delivered, not up until the date upon which the Landlord/Agent put the property back into the order they deemed appropriate.

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### ***Case Study Fifteen:***

The Agent sought to retain the sum of £95.00 from a deposit of £550.00 to contribute towards cleaning charges and re-fitting a headboard/removing rubbish.

The Tenant sought the return of the sum in dispute.

The Adjudicator found that the Agent's claim succeeded in part and the Adjudicator directed that the Agent receive £52.50, with the Tenant receiving £497.50. The Adjudicator considered the claims and apportioned the invoices in this matter, to take into account the documents produced and submissions provided by the parties.

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**Case Study Sixteen:**

The Landlord claimed the sum of £260.15 from the total deposit of £575. This was to cover the costs of replacing a front door lock, repairing woodwork, making good walls, clearing the garden, cleaning the property and three days additional rent. The Tenant challenged the Landlord's assertions and account. The Adjudicator examined all the evidence and determined that the sum of £418 should be refunded to the Tenant.

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**Case Study Seventeen:**

The Landlord claimed the sum of £666 from the total deposit of £725. This was to cover the costs of clearing the rubbish in the garden, repainting a bedroom and replacing an undersink cupboard, carpet, door strip and back door. The Tenant challenged the Landlord's assertions and account. The Adjudicator examined all the evidence and determined that the total sum of £666 should be refunded to the Tenant.

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**Case Study Eighteen:**

The Landlord sought to withhold £65 from the deposit to pay for cleaning at the end of the tenancy. The Tenants disputed this deduction saying that the cleanliness of the property at the end of the tenancy was the same level as at the beginning.

The Adjudicator found that the check-in inventory was dated six months earlier than the commencement of the tenancy and, as such, it had no real value as evidence in relation to this dispute. Even if the check-in inventory has been prepared at the commencement of the tenancy, it made no comment as to the level of cleanliness of the property. It would, therefore, not have provided evidence that the level of cleanliness was worse at the end of the tenancy than at the beginning.

Accordingly, the Landlord's claim for the cost of cleaning failed.

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**Case Study Nineteen:**

The Landlord sought to withhold £433.97 from the deposit to pay for rent in lieu of notice at the end of the tenancy. The Tenants were leaving at the end of the six-month fixed term but did not provide written notice to that effect until three days before the end date. The tenancy agreement required a minimum of one month written notice from the Tenants even if they were ending the tenancy at the end of the fixed term. The Tenants disputed that there was any legal obligation on them to give notice in those circumstances and accordingly they disputed the Landlord's right to deduct any money from the deposit in lieu of notice.

The Adjudicator found that the Tenants were correct in their assertion that there was no legal requirement on them to give notice when they were ending the tenancy at the end of the fixed term. The Adjudicator found that the term of the tenancy agreement seeking to impose such a notice obligation on the Tenants was unenforceable.

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### ***Case Study Twenty:***

The Landlord sought to retain a sum from the deposit in respect of cleaning charges. The Tenant sought the return of the deposit.

The Adjudicator found that the Landlord's case succeeded in part in regard to all of the items, and directs that part of the sum claimed be returned to the Landlord.

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### ***Case Study Twenty-one:***

The Landlord sought to retain the entire deposit to contribute towards cleaning costs and the cost of redecorating the entire property, which was affected by mildew.

The Tenant sought the return of the deposit, claiming that any problems were caused by dampness.

The Adjudicator found that the Landlord's claim succeeded in part. The Adjudicator found that the Tenant was liable for some of the decoration and cleaning costs, as evidenced by the receipts and check-in/check-out inventories. However, the bulk of the Landlord's claim failed. The Tenant had produced a report, prepared on the instruction of the new incoming Tenant, which showed that there was penetrating damp in the property. As a result it would appear that the responsibility for repairing the same fell within the Landlord's express/implied repairing covenant.

The deposit was apportioned £200.00 to the Landlord and £300.00 to the Tenants.

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### ***Case Study Twenty-two:***

The Landlord was seeking to retain the full deposit of £500.00 arguing that the Tenant gave inadequate notice. The Tenant submitted that she was tricked into signing a new tenancy Agreement when she thought she was signing an extension to the original Agreement.

Directing that £500.00 be returned to the Tenant, the Adjudicator found that the Landlord had not sufficiently demonstrated that the Tenant agreed to enter into a new Agreement. Formalities that were missing included: Repayment of the original lead Tenant's deposit, a new DPS deposit protection agreement in place naming the Tenant in this dispute, Adjustment of the returned deposit to reflect and problems with the Property, A Check-out inventory for the old tenancy and a new Check-in inventory for the new tenancy.

As a result the Adjudicator decided in favour of the Tenant in that she gave the one month's notice required under the original Agreement.

### ***Case Study Twenty-three:***

The Landlord were seeking to retain £600.00 out of the full deposit of £862.50 for cleaning (£240.00) required due to the Tenant's cat, but also a) £160.00 + VAT for plumbing problems, b) £75.00 for a gas safety inspection c) £ 69.00 for locksmith charges, d) £200.00 for redecorations, e) £352.00 for carpet replacement and f) loss of rental income £575.00.

The Tenant provided no evidence, but merely replied with a four line statement.

In view of the overwhelming evidence from the Landlords, the Adjudicator found that the Tenant had breached several of her tenancy obligations and awarded the £600.00 to the Landlords.

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### ***Case Study Twenty-four:***

The Landlord submits that she is entitled to retain the Deposit because when the Tenant left the Property:

The Tenant removed a purpose-built, outdoor cabinet constructed to house an outdoor washing machine. The washing machine was subsequently removed by or on behalf of the Landlord. Following the sale of the Property, which sale had included the cabinet. The Tenant removed the cabinet. Replacement/rebuilding costs are £140, two white cushions were missing at a cost of £6 each - £12; More than 30 bags of rubbish and other items including furniture and toys were left in the sheds and garden of the property. This cost £120 to remove. There had been significant damage to a leather suite including scuff marks, tears and pen marks. This cost £200 plus VAT to clean and repair and a fair proportion from the Tenant is claimed: £80; A large lamp was missing, estimated value £20; The suckers had been removed from one of a set of tables and only one sucker could be found. The cost of the set was £189, of which £70 is claimed from the Tenant.

The Tenant submits: That the washing machine cabinet was damaged and dangerous after the second washing machine was removed, that the house was sold without the washing machine cabinet and that, in any event, the washing machine cabinet was not replaced. The Tenant was forced to move out of the premises in a hurry and did not have time to dispose of all the rubbish because on 1st February 2009, a car crashed into the property. After that it was dangerous to live there and the Tenant sometimes camped out in the living room and sometimes stayed with friends. Although there had been some pen marks caused by her small son to the leather sofa, these had been cleaned off and any marks missed would easily have been cleaned off. The main damage was done by mice and wear and tear. The missing lamp is agreed. The Tenant states that this cost £14.99 in Argos but does not mind paying a little more.

The tables had been stored in a shed, out of the property and removed two months before the end of the term. They were in good condition, just a little dirty. Accordingly, they were not in the inventory at the end of the letting.

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### ***Case Study Twenty-five:***

The Landlord claimed to be entitled to retain the deposit of £700 on account of damage to the property, including the following:

The Tenants damaged the door seal and the internal ice-box door of a refrigerator; The Tenants damaged the wall of one room by breaking a shelf off the wall; The Tenants damaged a carpet in the bathroom by leaving a wet mat on it, causing it to rot; The Landlord incurred resultant cost of £484.74. The Tenants admitted the damage, but claimed that it was the result of fair wear and tear, and they disputed the Landlord's alleged cost.

The Adjudicator found that the Tenants had contributed to the damage to the refrigerator and should pay £35 towards repair or replacement, and that the Tenants had caused damage to the bathroom carpet and should pay the cost of replacement in the amount of £138.30. The other matters complained of were the result of fair wear and tear.

The Adjudicator directed that the Deposit Protection Service return the sum of £173.30 to the Landlord and the balance of the deposit, namely £526.70, to the Tenants.

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### ***Case Study Twenty-six:***

The Landlord alleged that he is entitled to retain the sum of £126.11 out of the deposit of £892.50 for the following reasons:

The Tenants damaged the door of a refrigerator, and the Landlord would incur the cost of replacing the door in the amount of £45.16; The Tenants damaged the vinyl flooring in the bathroom, and the Landlord would incur the cost of replacing the vinyl flooring in the amount of £80.95. The Tenants admitted the damage but claimed that it was the result of fair wear and tear, or alternatively was the result of defects in the property for which the Landlord was responsible.

The damage to the refrigerator occurred because it was struck by a cupboard door which swung open to make contact with the refrigerator, in the absence of a door stop. The damage was fair wear and tear, and in any event a Landlord would not reasonably incur expenditure in replacing the door of the refrigerator because the damage did not affect the functioning of the refrigerator. The damage to the vinyl flooring was caused by misuse by the Tenants, and the Landlord's proposed expenditure was reasonable.

The Adjudicator directed that £80.95 be paid to the Landlord, and the balance of £811.55 to the Tenant.

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### ***Case Study Twenty-seven:***

The Tenants disputed the Landlord's entitlement to a payment from their deposit because it was protected late. The Adjudicator found against this argument and allowed most of the Landlord's claim for cleaning and repairs. The Tenants admitted many of the items. The items disallowed were for new locks, as the Tenants returned the only key, and a replacement kitchen floor, which appeared to have suffered only ordinary wear and tear.

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### ***Case Study Twenty-eight:***

Although the Landlords' letting agent failed to protect the deposit once the Landlords put matters right they were able to claim it to cover arrears of rent. The tenancy agreement provided that the Tenants were jointly and severally liable for the rent so all of the deposit could be claimed by the Landlords even though one of them had paid more rent than the other.

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### ***Case Study Twenty-nine:***

The Landlord sought to retain various deductions for various dilapidations at the end of the tenancy. The Tenant sought the return of the deposit.

The Adjudicator found that the entire amount in dispute was allocated to the Landlord. The Adjudicator preferred the Landlord's evidence, and allocated the entire amount of the deposit to the Landlord. The entire deposit having been allocated to the Landlord it was not necessary, and outside of the Adjudicator's jurisdiction to consider the other items in dispute.

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### ***Case Study Thirty***

The Landlord claimed the sum of £267.20 from the total deposit of £850. This was to cover the costs of repairing a tap, clearing a Rayburn of ash, clearing up the garden, general cleaning and carpet cleaning. The Tenant challenged the Landlord's assertions and account. The Adjudicator examined all the evidence and determined that the sum of £647.80 should be refunded to the Tenant.

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### ***Case Study Thirty-one:***

The Landlord claimed the sum of £230 from the total deposit of £595. This was to cover the costs of redecorating the property. The Tenant challenged the Landlord's assertions and account. The Adjudicator examined all the evidence and determined that the sum of £537.50 should be refunded to the Tenant.

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### ***Case Study Thirty-two:***

The Landlord was originally seeking to retain the sum of £1,065.43 out of the total deposit of £1,350.00 for outstanding rent. The Tenant conceded the sum of £77.00 for other items, which, with an adjustment for interest, left the sum of £996.83 being protected.

The Adjudicator directed that the outstanding deposit be returned to the Landlord as he found there was ample evidence to show that the Tenant was in breach of his tenancy obligations by not paying the rent when due and that the sum as claimed by the Landlord was correct.

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### ***Case Study Thirty-three:***

The Landlords were seeking to retain £184.97 out of the full deposit of £1,200.00 for a) £30.00 for window cleaning, b) £7.99 for a new smoke alarm, c) £ 20.98 for a cooker control knob, d) £59.00 for oven clean, e) £60.00 for cleaning generally, and f) £7.00 for two light bulbs.

Directing that the full sum be returned to the Tenants, the Adjudicator noted that the failure of the Landlords to a) carry out a joint Check-out inspection or b) get an independent Inventory company to do the Check-out had caused their claims to fail. It was therefore merely the word of the Tenants against that of the Landlords which was insufficient.

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### ***Case Study Thirty-four:***

The total sum of £1,600.00 paid to the Landlady as Deposit at the commencement of the tenancy is currently in dispute.

The Tenant submits that he accepts a deduction of £100.00 to contribute towards the cost of professional cleaning of the Property, but denies any further liability and submits that he is entitled to be reimbursed the remaining amount of the Deposit. The Landlady seeks to make £900.00 deductions from the Deposit to cover for the costs of replacing the carpets and curtains and towards professional cleaning of the Property.

The total sum of £1,500.00 to be returned to the Tenant and the total sum of £100.00 to the Landlady on the grounds that the Landlady has failed to demonstrate that the damages have been caused by the Tenant during his tenancy.

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### ***Case Study Thirty-five:***

The Landlord sought to retain the sum of £397.50, plus VAT to contribute towards dilapidations at the end of the tenancy existing of (i) cleaning - £145.00; (ii) decorating - £32.50; (iii) removing items - £22.00; (iv) carpet cleaning - £75.00; (v) replacement mattress - £90.00; (vi) replacing bulbs to lounge walls - £15.00.

The Tenant sought the return of the deposit.

The Adjudicator directed that the entire amount be returned to the Tenant. The careful documentation produced by the Tenant, including copies of the check-in and check-out reports, photographic evidence, log of calls/chronology, and annotated documentation supported his contention. Conversely, the Landlord had simply put in a very brief submission, simply directing the Adjudicator to refer to a quotation.

The Adjudicator favoured the Tenant's contentions, which were supported by the documents, and directed that the entire deposit be returned to him.

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### ***Case Study Thirty-six:***

The Agents claimed the sum of £600, the total deposit. This was to cover the rent arrears of £1,404.31. The Tenant challenged the Agent's assertions and said that she had requested a reassessment of the rent due to the increasing damp that occurred in the property. The Adjudicator examined all the evidence and determined that the sum of £400 should be refunded to the Tenant.

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### ***Case Study Thirty-seven:***

The Landlord claimed the sum of £500, the total deposit. This was to cover the rent arrears of £787.32. The Tenants challenged the Landlord's assertions and said that money was not owed for rent. The Adjudicator examined all the evidence and determined that the sum of £500 should be paid to the Landlord.

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### ***Case Study Thirty-eight:***

The Landlord submitted that she was entitled to retain the Deposit because the Tenant had failed to keep the property sufficiently well-aired and warmed to prevent the build up of condensation and prevent mildew growth and because the Tenant failed to pay rent for the last month of occupation. She claimed the cost of clearing and redecoration when the Tenant left and one month's rent. The Tenant argued that the heating at the Property was inadequate, three of the windows leaked and mould grew heavily. In the kitchen this damaged kitchen equipment and food. There was a problem with mice due to unfilled holes in the external walls. This made the kitchen ultimately unusable. For the final 6 or 7 weeks of the tenancy, no food at all was prepared in the kitchen and the Tenant resorted to moving all the items in the kitchen into the living area. In December the heating boiler was declared unsafe and was turned off for two days when the Tenant had to move out. The Landlord's Agents agreed with the Tenant that she could move out early.

The Adjudicator found that the heating boiler was not working properly during the tenancy and that the Tenant was not in breach of the Tenancy Agreement. As for the claim for unpaid rent, the Adjudicator found that the Tenant was entitled to set off any claim for damages which she would be able to make for the Landlord's failure to keep the space heating installation in adequate repair.

The Adjudicator approached this question by looking at the reduction in the rental value over the period when the kitchen had become unusable and assessing the Property broadly as one which had no usable kitchen and significant problems with mould. Carrying out that exercise, the Adjudicator allowed a one third reduction on rent for that period. She found that the Tenant could also set off the entirety of the rent for those days in which the Tenant could not occupy at all.

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### ***Case Study Thirty-nine:***

The Landlord had agreed with the Tenant that the Tenant could terminate the tenancy without notice due to repeated noise nuisance from a nearby property. He claimed against the deposit for 5 days rent up to the date of the attendance of the Inventory clerk for check-out, and certain sums in respect of cleaning and gardening. The agreement that the Tenant could leave without notice had been reached as a result of a number of conversations and the accounts of the agreement differed. The Tenant had in fact moved out of the Property on a date (day 21). The Agents stated

that the Tenant made a verbal request to the Landlord by telephone on day 22 to end the tenancy early. They said that agreement was given by the Landlord “on the basis that” the Tenant would be responsible for rent up to the time of the check-out. The Landlord told the Agents about the arrangement on day 23. The earliest check-out appointment that they were then able to arrange was day 26.

The Tenant’s account was that he first spoke with the Landlord about the difficulties with noise nuisance and other unacceptable behaviour from the nearby property earlier in the month. Following further unacceptable behaviour on days 17 and 18, the Tenant tried again to speak to the Landlord on day 19 but he was away. After another disturbing incident over that night, the Tenant left a message for the Landlord that he would vacate the property with immediate effect and he asked about return of the keys. The Landlord spoke directly to the Tenant on day 25. He said that he did not want the keys back prior to the check-out, but that he would terminate the contract.

The Adjudicator found although the Tenant had made clear his intention to vacate the Property without notice on day 20, this was not accepted by the Landlord until his conversation with the Tenant on day 25. This meant that the agreement was made on day 25 and that was to be treated as the last date of occupation. As the previous rental period ended on day 20, the Tenant was liable for rent for 5 days including both day 21 and day 25.

As for the claim for cleaning the Tenancy Agreement said that the Tenant had to clean to a good standard. The Adjudicator did not find that this meant perfection. As the Check-out report recorded that the areas summarised were in a clean condition and as there were no photographs of the relatively minor complaints made, the Landlord had not proved the Tenant was in breach of the obligation to clean to “a good standard”. The Tenant’s obligation in respect of the garden was cut the grass as necessary. Although against the garden, the Tenant and Inventory clerk have agreed that “grass is long”, in the Summary, the entry against the garden read “grass slightly long”. There were no photographs. The Adjudicator considered the fact that the Tenant left the Property in February when cutting the grass is seen as less usual. The estimate for mowing and other work did not show whether and when the work was done. Overall, the Adjudicator found that the Landlord had not proved that the mowing was necessary at the time that the Tenant left the Property, nor that if there was a breach of an obligation to mow, that had resulted in any loss to the Landlord.

The Adjudicator directed that the equivalent of 5 days rent be paid to the Landlord and the balance returned to the Tenant.

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### ***Case Study Forty:***

The Landlord claimed against the Deposit for a number of invoices relating to expenditure at the Property after the Tenant left. He did not, however, explain why those invoices were said to relate to breaches of the Tenancy Agreement. Nor were the Landlord’s claims consistent with the check-out report which had not commented adversely on the items claimed. The Adjudicator found that the Tenant was entitled to the return of the deposit in its entirety.

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### ***Case Study Forty-one:***

The Landlord claimed against the Deposit for general cleaning, professional cleaning to the carpets to eliminate pet smell and re-turfing part of the garden.

The Adjudicator interpreted the terms of the Tenancy Agreement to find the Tenant's obligations in relation to cleaning and to the garden. She found that in respect of cleaning the terms meant that Tenant's duty was to clean at the end of the tenancy to the same standard as at the time of the beginning of the letting and, to a professional standard only where the Inventory shows that items had been soiled during the tenancy. The Adjudicator found that, on a comparison between the Check-in Inventory and the Check-out report, there was a need for some cleaning but not so much cleaning as had been claimed by the Landlord. She allowed a proportion of the cleaning invoice, which had not been itemised. The Adjudicator also found that the presence of a pet smell amounted to soiling of the carpets and so the Landlord could make a deduction from the Deposit in respect of the need for professional cleaning of the carpets.

In respect of the garden, where both the Tenant and the Landlord had maintenance obligations, the Adjudicator found that the Landlord's obligation replaced the Tenant's obligation in respect of maintenance of the lawn. Moreover, the Landlord had produced no evidence to show that re-turfing had been done at extra cost.

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### ***Case Study Forty -two:***

The Landlord claimed to be entitled to retain £223.90 out of the deposit of £2,010 for the following reasons:

a) The Tenant caused damage to the bathroom of the flat by condensation and mould growth, and the cost of repair and redecoration was £150; b) The Tenant consumed, but failed to pay, for gas to the value of £8; c) The Tenant took from the flat a gas card worth £8; d) The Tenant failed to pay rent for the last few days of the tenancy in the amount of £57.90. e) The Tenant alleged that the Landlord failed to repair defects in the flat which caused condensation and mould growth, so that the Tenant's health was adversely affected and she lost sleep, and suffered problems at work, and she was entitled to terminate her tenancy. She counterclaimed for expense incurred as a result of having to move to another flat.

The condensation and mould were caused by the Tenant's failure to provide heating and ventilation. The Landlord was entitled to recover the cost of redecoration in the amount of £150, £16 in respect of gas, and £57.90 in respect of unpaid rent, total £223.90

The Tenant was entitled to set-off £10 in respect of cleaning a bath mat which was made dirty by the Landlord's workman or agent.

The Adjudicator directed that The Deposit Service should pay £213.90 to the Landlord and the balance of the deposit to the Tenant.

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### ***Case Study Forty -three:***

The Landlord claimed to be entitled to retain £759 out of the deposit of £1,900 on the ground that the Tenant damaged the property and its contents by allowing carpets to acquire an unpleasant odour of dog, so that they had to be replaced at a cost of £759. The Tenant claimed that she had the carpets professionally cleaned at the end of the tenancy, and that any remaining smell was of damp, which was not the Tenant's responsibility. The smell was of dogs, and the Landlord acted

reasonably in mitigating her loss by replacing the carpets. She was entitled to recover half of the cost of replacement from the Tenant because the carpets were half way through their useful life.

The Adjudicator directed that The Deposit Service should pay £429.50 (including an agreed additional amount of £50) to the Landlord and the balance of the deposit to the Tenant.

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#### ***Case Study Forty -four:***

The Letting Agent sought to retain the sum of £450.00 to contribute towards decorating costs, pursuant to a purported clause requiring the Tenant to decorate the property.

The Tenant sought the return of the deposit, indicating that the Tenant never agreed to decorate the property, and also referring to the fact that the Tenant left the property in a much better condition.

The Adjudicator found that the total amount in dispute should be returned to the Tenant.

The only reference to the Tenant's purported obligation to redecorate the property is referred to briefly in a manuscript note in the check-in inventory. That was ambiguous, and any ambiguity should be construed against the Letting Agent in such circumstances. In addition, the Tenant had referred to problems that would fall within the Landlord's repairing covenant, which clearly could not be transferred to the Tenant in such circumstances. Yet further, the Letting Agent has failed to produce any documentary evidence in the form of a quotation/invoice and/or receipt for the cost of the dilapidations/works. Accordingly the Letting Agent's failed, and the Adjudicator directed that the sum be returned to the Tenant.

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#### ***Case Study Forty -five:***

The Landlord claimed to be entitled to retain the whole of the deposit of £775 for the following reasons:

a) The Tenant caused damage to the fittings and decorations of the property; b) The Tenant lost, damaged or destroyed carpets and other furnishings and replaced some items them with items of lower quality, c) The Tenant acknowledged that the carpet in the front room had been stained and needed to be replaced, but denied causing any other loss or damage. She said the property had been refurbished at the beginning of the first tenancy, but that the work was done to a poor standard, and that the garden was unsafe to use because the Landlord failed to provide railings.

The Adjudicator found for the Landlord on all points, apart from a missing bath mat and a missing door mat. He accepted the quotations and receipts produced by the Landlord, but held that a reasonable Landlord would not replace the laminate flooring immediately, and halved the amount claimed for that item. The total recoverable by the Landlord from the Tenant exceeded the amount of the deposit. The Adjudicator directed that the whole of the deposit of £775 be returned to the Landlord.

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#### ***Case Study Forty -six***

The tenancy came to an end following a fire at the property. The Landlord claimed that the fire was the Tenant's responsibility. The Fire Brigade provided a summary of the reasons for the fire, which was caused by an electric heater overeating. The supposed cause of the fire was combustible material too close to the heater. The heater cover provided by the Landlord caught

fire first, according to the Fire Brigade summary, and the Adjudicator found that on the evidence produced to him the Landlord had failed to prove that the Tenant was responsible for the fire.

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### ***Case Study Forty -seven:***

The Landlord claimed against the Deposit for cleaning, damage to a sink and damage by burning to a cooker hood. The Tenant sought to set off a counterclaim regarding the condition of the shower, the fact that the Landlord had left items in the Property and certain other deficiencies.

As for cleaning, the Tenant's obligation under the Tenancy Agreement was to pay for any reasonable cleaning services required to reinstate the Property to the same order as at the start of the tenancy. Another clause permitted the Landlord to use the Deposit for the "fair costs incurred" in compensating the Landlord for or rectifying or remedying any "meaningful breach" of the Tenancy Agreement, including as to cleaning. The Landlord had taken time off work at the end of the tenancy to carry out decorative work at the Property and had also used her time for the purpose of cleaning. The Adjudicator found that this was not a "fair cost incurred" because no cost had been incurred. Furthermore, comparing the condition of the Property as described in the Inventory as annotated by the Tenant on 15th September 2008 and the state of the premises at the end of the tenancy, the Adjudicator found that the Landlord had not established a "meaningful breach" in respect of the condition of the premises. The Inventory signed by the Tenant soon after the start of the tenancy was the best evidence that was available as to the condition of the premises at the start of the tenancy. The Adjudicator found that, overall, there was little difference between the state of the Property at the beginning and at the end of the tenancy. In respect of the sink, the Tenant's obligation under the Tenancy Agreement was to take reasonable and proper care in the use of the Property and its fixtures and fittings. The Inventory signed by the Tenant shortly after the beginning of the tenancy had described the kitchen sink as quite scratched. Accordingly, it was unclear whether the deterioration in its condition was due to a failure by the Tenant to take reasonable and proper care of the sink or because the condition of the sink was already compromised and had become more so through fair wear and tear. The Adjudicator found that the Landlord had not established that the Tenant failed to take reasonable and proper care of the sink. In respect of the extractor hood, the Inventory which the Tenant annotated had made no adverse comment about its condition. In the light of the careful way in which the Tenant had annotated other problems at the Property, the Adjudicator found that it was unlikely that the damage was present at the start of the tenancy but had gone unnoticed.

The Adjudicator found that the Landlord was entitled to deduct a sum from the deposit. The Landlord has produced evidence of the cost of a new stainless steel hood although once there had been a replacement the Landlord would have had the benefit of a new hood in place of an old one. A deduction of 25% of the cost of the part was made for betterment although all the fitting costs were allowed.

As for the Tenant's set-off, the Adjudicator found against the Tenant for want of evidence.

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### ***Case Study Forty -eight:***

The total sum of £625.00 paid to the Landlady as Deposit at the commencement of the tenancy is currently in dispute.

The Tenant accepts to contribute £125.00 towards the damage caused by the iron burn but denies any liability in relation to the remaining claims of the Landlady. The Landlady seeks to make deductions from the Deposit to cover for £1,767.50 of losses suffered as a result of the Tenant's breaches of the Tenancy Agreement.

The Adjudicator directs that out of the total sum in dispute, he awards

- a) The total sum of £125.00 to the Landlady;
- b) The total sum of £500.00 to the Tenant.

On the grounds that there were a number of matters and inconsistencies between the Landlady's submissions and the evidence she provided which weighed against her claims.

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### ***Case Study Forty -nine:***

The Landlord submitted that part of the Deposit should be withheld from the Tenant because at the end of the tenancy a) the vinyl floor in the utility room had been removed and the Tenant had agreed to pay half the cost of replacement, b) the chimney had not been swept, c) the carpets were not adequately cleaned, d) there was damage to the garden, namely the cost of reseeding the grass following damage by spilled heating oil and dog urine and the hall and stairway wall were chipped and required filling and redecoration. The Tenant denied liability.

The Adjudicator found against the Landlord in respect of all the claims except that of sweeping the chimney. The Landlord had undertaken work at the Property at the end of the tenancy and had not produced any documentary evidence which showed that the items claimed against the Tenant were in fact sums expended or to be expended by the Landlord. In respect of the sweeping of the chimney above an open fire, the Tenancy Agreement said that the Tenant was required to have had this done at the end of the tenancy if he had used the chimney. The Tenant had used the chimney. This was the sort of work which the Landlord would need to have done reasonably frequently for a fire in use and for which a Landlord would generally require the services of a contractor. The Adjudicator allowed a reasonable cost.

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### ***Case Study Fifty:***

The Landlord claimed to be entitled to retain £193 out of the deposit of £742.50 for the following reasons: The Tenant caused the bathroom floor, carpet and underlay to be damaged by water, and the Landlord would incur a cost of £138 to treat the floor and replace the carpet with linoleum; The Tenant left the flat in an unclean condition, and the Landlord would incur a cost of £55 for cleaning. The Tenant claimed: That the Landlord was going to replace the bathroom carpet with linoleum in any event, and had therefore suffered no loss; That the damage to the bathroom floor, carpet and underlay was caused by leaking bath seals which were the Landlord's and not the Tenant's responsibility; That the flat was left in as clean a condition as when the tenancy commenced.

The Adjudicator found that water leaked from the shower because the shower curtain was inadequate to prevent water escaping. It was therefore the Landlord's and not the Tenant's responsibility. He studied photographs supplied by the Landlord, but was not satisfied that the Landlord had proved the Tenant to be in breach of any contractual obligation in respect of cleanliness of the flat.

The Adjudicator directed that the whole deposit be returned to the Tenant.

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### ***Case Study Fifty –one:***

The total sum of the Deposit paid to the Agents at the commencement of the tenancy was £1,400.00. The sum currently in dispute is £100.00.

The Tenant submits that she is entitled to be reimbursed the total amount in dispute. The Agents seek to retain the amount in dispute, to cover for the cost of professional cleaning of the Property.

After careful consideration of the submissions of the parties and the documents provided to the Adjudicator, he directs that the Tenancy Deposit Solutions Ltd return the total sum of £100.00 to the Tenant on the ground that she was not contractually bound to professionally clean the Property at the end of her tenancy.

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### ***Case Study Fifty -two:***

The Landlord claimed to be entitled to retain £1,000 out of the deposit of £1,560 for the following reasons:

(i) The Tenant left the flat in need of cleaning, for which the Landlord claimed £130, and redecoration, for which the Landlord claimed a contribution of £800 towards the cost; (ii) The Tenant should pay £70 for the cost of the check out inspection report of 3rd March 2009. (b) The Tenant claimed: (i) That the flat was thoroughly cleaned, but some dusting was necessary, for which a reasonable cost would be no more than £50; (ii) That some repainting was required as a result of the use of blu-tac, but that a reasonable cost would not exceed £250; (iii) That the Tenant should not have to pay for the check out inspection report.

The Adjudicator found for the Landlord in respect of the damage and need for redecoration, and agreed that the cost of £800 was reasonable. He preferred the Tenant's evidence about the cost of cleaning, because it corresponded with the result of comparing the check in and check out inventories. He found there was insufficient evidence of any agreement by the Tenant to pay the cost of the check out inventory.

The Adjudicator directed that the Deposit Protection Service return the sum of £850 to the Landlord, and the balance of the Tenant's deposit of £1,560, namely £710, to the Tenant.

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### ***Case Study Fifty -three:***

The Landlord claimed a payment from the deposit to cover the cost of the inventory, cleaning, laundry, new light bulbs and a scratched kitchen tap. The Tenant conceded part of the claim and on the evidence contained in the photographs and independent inventory/check out report the Adjudicator allowed payments for cleaning and laundry. The claim for a new tap failed, as the scratches were no more than ordinary wear and tear.

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### ***Case Study Fifty -four:***

In this case, the Tenant had exclusive use of one room and she shared the common parts of the house with other Tenants. She also shared the utilities bills. During the final stages of her time in the Property, three Tenants had left at varying dates and one had joined. When the Tenant herself left, the Landlord claimed against the Deposit for unpaid rent, a proportion of the gas bill and a proportion of the telephone bill. In respect of utility bills, the Tenancy Agreement stated that the Tenant was liable to pay an “appropriate proportion” of these. The Landlord said that this meant that once the other Tenants had left, the gas bill should be split between those who remained. The Tenant agreed that she was liable until the expiry of 28 days notice and did not owe rent beyond that. She said that the appropriate proportion of the gas bill was a quarter because the Property was suitable for letting to four Tenants. The Landlord should not be able to increase her liability for the gas because the number of Tenants had reduced.

The Adjudicator found that although the Tenant was required to give at least 28 days notice, this should expire at the end of a period of the tenancy. The Landlord had in fact claimed for a shorter time and was entitled to receive the rent for the time covered by her claim. In respect of the utilities bills, it was for the Landlord to prove that her interpretation of the expression “appropriate proportion” was correct. As there was no contractual interpretation of this expression which supported the Landlord’s view, the Adjudicator found that the Tenant was liable for one quarter of the gas bill.

The Tenant had paid a quarter of the telephone line rental and the Landlord could not establish that she had made the calls. The Adjudicator found that the Landlord had not established the claim for the telephone bill.

The Landlord had also claimed half of the interest on the deposit in accordance with an agreed provision of the Tenancy Agreement. The Adjudicator took the view that issues relating to interest on the Deposit were governed by the DPS Rules to which the parties had agreed, in particular to clauses 18(i), 18(k) and 23(g) of the DPS Terms and Conditions. Accordingly no findings as to the distribution of interest by DPS were made by the Adjudicator.

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### ***Case Study Fifty -three:***

The Landlord claimed against the Deposit for the cost of replacing a carpet damaged by a leaking radiator, for cleaning, for agents’ fees in trying to resolve the dispute and writing reports before the start of ADR and for damage to a kitchen plinth.

The Adjudicator found that it was the Landlord’s responsibility to keep the radiators in good working order and proper repair. The Tenant was not under an obligation under the Tenancy Agreement to report a leak to the Landlord. In any event, he had reported it and it had not been repaired. The Landlord had not proved a breach of the Tenancy Agreement. The Landlord had not proved that more cleaning was needed than the Agents had found on inspection of the property at the end of the letting. The claim for cleaning was limited to £55, which the Agents’ contractors had quoted. There was no evidence as to who had cut the kitchen plinth. The Tenant denied it. It could have been cut by the Landlord or his agents in removing his dishwasher. It was not referred to on the check in report. The Adjudicator found that the Landlord had not proved this claim. As for the claim for Agents fees, the Landlord relied on a clause in the Tenancy Agreement which related to the rectification of breaches. The only breach which the Landlord had proved was as to £55, which the Tenant agreed. Costs in relation to this would have been minimal. The Adjudicator found against the Landlord on this claim.

The Adjudicator therefore directed that £55 be paid to the Landlord and the balance of the Deposit be returned to the Tenant.

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#### ***Case Study Fifty -four:***

In this case the Landlord claimed against the deposit for cleaning the carpet, general cleaning and for the replacement of missing or broken items. The Adjudicator found that the Landlord had established that at least two rooms in the house had carpets which were insufficiently clean. As the claim for carpet cleaning was supported by a contractor's invoice, the Adjudicator allowed this claim. The Adjudicator did not allow the claim for 10 hours cleaning which was not supported by an invoice. The Landlord had not claimed that she had suffered a loss.

In respect of missing or broken items, the Landlord had not produced any documents which showed that the items had been replaced. In respect of missing items, there was no Inventory to prove that the items had ever been in the Property at the beginning of the tenancy. The Adjudicator found against the Landlord in respect of all of these claims except for damage to a breadboard which the Tenant admitted.

As the Landlord had not proved that she had replaced the breadboard, the Adjudicator allowed £2.50 relating to the difference in price between a damaged bread board and an undamaged one.

The deposit was therefore paid in part to the Tenant and in part to the Landlord.

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#### ***Case Study Fifty -five:***

In this case, the Landlord claimed against the deposit for unpaid rent, unpaid bills and disrepair.

The Tenant's argument was that because she had previously made overpayments to the Landlord for Council tax, she was entitled to set off those overpayments against the liabilities.

The Adjudicator found that the Tenant had made overpayments and that these could be set off against the Landlord's claim. The Landlord was only entitled to 10 days rent (calculated by reference to the annual rent divided by 365 and multiplied by 10), because she had broken the Tenancy Agreement by terminating when she was not entitled to. The Tenant had agreed to go, so was liable for rent only for those days for which it was agreed she would remain. The Landlord was entitled to some sums due for unpaid bills. Although the Landlord had produced no supporting documents, her claim, calculated shortly after the dispute arose, was less than the Tenant's estimate of what was owing. The Landlord was not entitled to recover for bills which had been raised by utilities companies against the Tenant in the subsequent year, because the Landlord had not shown that these sums were due at the end of the tenancy nor had she shown that the Landlord would be liable to pay them.

The Adjudicator also allowed some small claims for cleaning and disrepair even though no supporting documents had been produced. This was because the claims had been agreed by the Tenant as appropriate. Having calculated what was due against the sum that could be set off, the Adjudicator directed that part of the deposit was payable to the Landlord and the remainder to the Tenant.

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### ***Case Study Fifty -six:***

The total sum of £1,500.00 paid to the Landlady as Deposit at the commencement of the tenancy is currently in dispute.

The Tenant denies any liability towards the Landlady and submits that she is entitled to be reimbursed the full amount of the Deposit. The Landlady seeks to make deductions from the Deposit to cover for the following costs: a) Unpaid rent £1,000.00 b) Professional cleaning £ 150.00

The Adjudicator hereby decides and directs that the total sum of £1,500.00 be awarded to the Tenant on the grounds that: a) The Landlady failed to demonstrate on a balance of probabilities, that she did not agree an early release from the contract with the Tenant and b) There was insufficient documentary evidence provided to make a finding on the cleaning item.

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### ***Case Study Fifty -seven:***

The Landlord claimed against the Deposit for unpaid rent and the cost of repairs at the end of the tenancy.

The Adjudicator found that, in respect of the repairs, the Landlord had provided insufficient documentation to prove the breaches of the Tenancy Agreement alleged, with the exception of one item of the fittings at the Property, which the Tenant admitted she had removed. The Tenant argued in respect of that removed item that she had left other fittings in a different room instead. The Adjudicator found that the Tenant was liable for the cost of replacement of the item, less a discount which reflected the fact that an old item had been removed but the Landlord proposed to replace it with a new item. As the Landlord had produced no professional estimates, invoices or quotations in respect of the replacement, the Adjudicator had to make an assessment of the figure that the Landlord could be permitted to claim.

The Tenant also relied as a defence by way of set-off on incidents of breaches of the Landlord's obligation to keep the installations for water and sanitation in the Property in repair. This had resulted in damage to her property and had meant that one of the bedrooms had been unusable for sleeping for 2 months. The Adjudicator made a global assessment of the distress and inconvenience caused, taking into account the level of rent and the nature and condition of the Property at the time that she had agreed to become the Tenant. She found that the appropriate figure was £75 and allowed the Tenant also to recover the amount of the unpaid excess under her contents insurance for the damage she had suffered. This was set off against the sums due to the Landlord and the Adjudicator directed that part of the deposit be paid to the Landlord and the balance be returned to the Tenant.

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### ***Case Study Fifty -eight:***

The Landlord claimed for 1 months unpaid rent and repairs. The Tenant said that there was no rent outstanding. This might have been because she had misunderstood the rent statement which was confusing. The Adjudicator found that she was liable for the rent. In respect of the Tenant's complaint that the Property had been re-let during the period for which rent was paid, the Landlord denied this and the evidence put forward by the Tenant did not lead inevitably to the conclusion that the property was re-let. The Adjudicator found on balance that the Landlord had not re-let the Property. As this finding exhausted the deposit there was no need to make further findings about disrepair.

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### ***Case Study Fifty -nine:***

The Landlord was seeking to retain the full deposit of £1,000.00 for unpaid rent which the Tenant was seeking to withhold due to ongoing problems with the Property.

Directing that £1,000.00 be returned to the Landlord, the Adjudicator noted that the Tenant had not provided sufficient evidence to justify withholding any rent and was therefore in breach of her tenancy obligations.

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### ***Case Study Sixty***

The Landlord was seeking to retain £796.00 out of a total deposit of £1,100.00. A breakdown to the £796.00 had not been given but the Tenant (1 of 4) had provided the following breakdown a) £275.00 for rent owed by one of the Tenant's, b) £210.00 for carpet cleaning, c) £600.00 for replacement carpet, d) £100.00 for rubbish removal, e) £481.00 for maintenance work.

Directing that £500.00 be refunded to the Landlord and £296.00 to the Tenant, the Adjudicator decided that the claim for outstanding rent succeeded as the Tenants were jointly and severally liable for any outstanding rent.

The claims for carpet cleaning and rubbish removal were reduced as no evidence of costs had been provided and an allowance of £100.00 for the maintenance work allowed for the work the Adjudicator considered was the responsibility of the Tenant.

The claim for replacement carpet failed in its entirety as the Landlord had totally ignored the Check-in report (carried out by an Independent firm) which listed 55 cigarette burns, considerable wear, tears and marks.

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### ***Case Study Sixty -one:***

Oil spilled from the Tenant's car onto the tarmac of the parking space during the tenancy. The Adjudicator found that the Tenant's obligation to use the premises in a Tenant like manner meant that she should have cleared up the spill as soon as it occurred. The evidence submitted established that because it was not cleaned up quickly the oil had damaged the tarmac, which needed re-surfacing, and the Adjudicator allowed the Landlords to recover the cost of this work from the deposit. The Landlords also claimed for cleaning, but did not establish that the property was any less clean at the end of the tenancy than at the start. The scratches on the leather upholstery, which could only be seen in bright sunlight, were found to be no more than ordinary wear and tear.

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### ***Case Study Sixty -two:***

The Landlords claimed for tidying the garden and yard, fitting new blinds, general cleaning, window cleaning, carpet cleaning, and decorating. Some of their claim was supported by photographs and allowed but other aspects of the claim were not supported by evidence, and the Adjudicator found that they were not proved. Although there was an inventory there was no check out report, which meant that there was no independent evidence to substantiate the Landlords' claim when it was disputed by the Tenants.

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### ***Case Study Sixty -three:***

The tenancy agreement was entered into for an initial period of six months, but one of the Tenants lost her job and they gave notice to end the tenancy early without finding a replacement Tenant. The Landlord decided to re-house another Tenant in the property on a temporary basis once the Tenants moved out, whilst repairs were carried out to her home, and then claimed the deposit towards rent from the Tenants for the remainder of the six month term. The Adjudicator found that, as a matter of law, once the Landlord took possession of the property by moving another Tenant in the tenancy ended and with it the Tenants' obligation to pay rent. The whole of the deposit was returned to the Tenants.

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### ***Case Study Sixty -four:***

The Landlord provided new carpets at the start of the tenancy. The check out report and photographs showed that the carpets had become stained. The Tenants cleaning had not removed the stains. The Landlord claimed for new carpets. The Tenants claimed that the staining was caused by a Council workman who had sprayed the flat for bed bugs, but the Adjudicator accepted that the insecticide used would not, on balance have caused the stains that were left after cleaning had taken place. He allowed the Landlord's claim, after discounting it for betterment.

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### ***Case Study Sixty -five:***

The Landlord sought to retain the sum of £612.61 consisting of (a) carpet/oven cleaning costs - £85.00; (b) final utility costs - £293.27; (c) Landlord's accommodation costs - £59.00; (d) replacement heating timer - £147.05; (e) replacement kitchen bin - £29.29.

The Tenant contested all of the deductions.

The Adjudicator found that the Landlord's claim succeeded in part. The Adjudicator awarded part of the cleaning costs in the sum of £45.00, to represent carpet cleaning only. The Landlord's accommodation costs were also allowed on the basis that they flowed directly from the Tenant's breach. The replacement heating timer was also allowed, on the basis that the damage appeared to have been caused by the Tenant and exacerbated by an attempted repair job. The replacement kitchen bin also succeeded, on the basis that the Tenant appeared to have admitted liability for some of the damage.

Accordingly the Adjudicator directed that the Tenant receive the sum of £341.27 and the Landlord the sum of £271.34.

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### ***Case Study Sixty -six:***

The Landlord claimed to be entitled to retain the sum of £280.30 from the deposit of £1,170 for the following reasons:

a) The Tenant failed to pay rent of £277.80 for the last 10 days of the tenancy; b) The Tenant failed to replace a failed light bulb, for which the Landlord claimed £2.50.

The Tenant asserted: a) That because of defects in the property prejudicial to health and safety the Tenant was entitled to withhold payment of rent for the last 10 days of the tenancy; b) That the Landlord was guilty of breaches of the implied covenant for quiet possession and enjoyment of the flat, and that the Tenant is entitled to set-off damages sufficient to extinguish any claim that the Landlord might be entitled to make against the Tenant. In addition, the Landlord had been unjustly enriched by the Tenant's payment of Community Charge at a time when she was entitled to exemption as a full time student.

The Tenant had withheld rent of £277.80 due to the Landlord. The light bulb might have failed after the end of the tenancy, and therefore the claim for £2.50 failed. The Tenant's complaints did not demonstrate any breach of covenant by the Landlord that caused any material interference with the Tenant's use and enjoyment of the property. A public law question about liability to pay Community Charge could not be resolved with the scope of ADR concerning a dispute about the Tenant's deposit.

The Adjudicator directed that £277.80 be returned to the Landlord, and the balance of £2.50 to the Tenant.

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### ***Case Study Sixty -seven:***

The Landlord claimed the total deposit of £1,100. This was to cover the costs of making good the walls and painting them. The Tenant challenged the Landlord's assertions saying that the Landlord had not been straight with her. The Adjudicator examined all the evidence and determined that the sum of £1,020 should be refunded to the Tenant.

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### ***Case Study Sixty -eight:***

The Landlord claimed to be entitled to retain £415 out of the amount of £600 which was contributed to the deposit by the Tenant, for the following reasons:

a) The Tenant left the property and contents dirty and damaged, and the cost of cleaning, replacement and repairs was £344.76, so that the Landlord was entitled to deduct one-third of that amount, namely £115, from the Tenant's deposit; b) When the current owners of the Landlord company took over, they received only £300 in respect of the Tenant's deposit and not the sum of £600 which the Tenant paid.

The Tenant asserted: a) That the property was left clean and undamaged, and the deductions claimed by the Landlord were not justified; b) That the Tenant paid a double deposit of £600 instead of £300, and received a Deposit Protection Certificate in respect of £1,200.

The Tenant had failed to return the property in a clean condition, and had failed to replace one light bulb and had damaged a shelf in a refrigerator. The reasonable cost of carrying out the necessary work of cleaning and replacement was £120, of which one-third was the liability of the Tenant, because the Landlord had already made deductions from the deposits provided by the

other two joint Tenants. The Tenant had paid £600 by way of deposit. It made no difference that the owners of the Landlord Company were different at the time when the deposit was taken from the Tenant, or that the full amount of the deposit might not have been passed over to the current owners.

The Adjudicator directed that £40 be returned to the Landlord, and the balance of £375 to the Tenant.

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### ***Case Study Sixty -nine:***

The Landlord sought to deduct the following sums from the deposit (a) professional clean - £200.00; (b) downstairs cloakroom - £90.00; (c) heavy scratches to reception wall - £76.25; (d) broken blind in reception room - £75.00; (e) bathroom lino - £138.00; (f) lock on bathroom door - £46.00; (g) bathroom grouting to bath surround - £57.50. The Landlord has indicated that he was prepared to accept the sum of £500.00.

The Tenant challenged the items and amounts claimed in this matter, but overall gave a very brief submission.

The Adjudicator found that the claim for the heavy scratches to the reception wall succeeded in full, as the Landlord was only seeking a contribution and not the full amount of the invoice. The items in respect of the blinds, lino, lock, and bathroom succeeded, subject to reasonable allowances. The Landlord was awarded a total of £270.00, with the balance going to the Tenant.

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### ***Case Study Seventy:***

The Agents claimed the total deposit of £1,650. This was to cover the costs of repainting the whole property, laying new carpets and lino, replacing blinds, curtains, kitchen worktop and fridge. The Tenant challenged some of the Landlord's assertions. The Adjudicator examined all the evidence and determined that the whole of the deposit, £1,650, should be returned to the Agents on behalf of the Landlord.

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### ***Case Study Seventy- one:***

The Landlord claimed the sum of £849 from the total deposit of £2,985. This was to cover the costs of a professional clean of the property, a steam clean of rugs, sofa and bed, replacement of a towel rack and mattress. The Tenant challenged the Landlord's assertions saying that he was not responsible for the alleged stains. The Adjudicator examined all the evidence and determined that the sum of £615.20 should be refunded to the Tenant.

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### ***Case Study Seventy- two:***

The Landlord claimed the sum of £740 from the total deposit of £1,800. This was to cover the costs of a replacement hob, repair of the blinds and a sofa and cleaning of the property. The Tenant challenged the Landlord's assertions saying that the blinds were rarely used. The Adjudicator examined all the evidence and determined that the sum of £452.50 should be refunded to the Tenant.

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### ***Case Study Seventy- three:***

The Tenants agreed to a deduction of £407.10 to cover professional cleaning and the checkout cost. The Landlord agreed to the return to the Tenants of £426.18. This left a disputed amount of £828.24 which the Landlord claimed for paint, carpet replacement, replacing shower tray seal, hire of steam cleaner and travel costs.

The Adjudicator found that the Tenants had caused damage to the carpet but not serious enough to justify its replacement. On the facts of the case, he found that 10% of the replacement cost was fair compensation for the damage.

The Adjudicator found that the Tenants had allowed the condition of the shower to deteriorate but not enough to justify the re-sealing of the shower tray. On the facts of the case, he found that 50% of the replacement cost was fair compensation for the deterioration.

The other elements of the Landlord's claim failed for lack of evidence.

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### ***Case Study Seventy- four:***

The Tenants left the property after 16 months of a two year fixed term. A replacement Tenant was found and took up residence two weeks later. The Tenants agreed to the Landlord withholding £550 from the deposit for unpaid rent and costs. The Landlord sought to withhold the rest of the deposit (£920) to compensate for commission paid to the Agent at the beginning of the tenancy to the extent that it overlapped with commission paid for the replacement tenancy. The Landlord relied on a clause in the tenancy agreement which made Tenants liable for reasonable costs incurred by the Landlord as a result of early termination by the Tenants.

The Adjudicator found that the clause relied on was expressly for costs suffered by the Landlord from the point of early termination. The commission had been paid at the beginning of the tenancy so was not recoverable under that clause.

However, the Adjudicator found that, subject to the usual legal rules, the Landlord was entitled to recover damages arising from the Tenants' breach of the tenancy agreement. To allow the Landlord to recover the full amount of the overlap in commission would result in a windfall for the Landlord and/or the Landlord's Agent which the Adjudicator found was not recoverable from the Tenants.

The commission paid by the Landlord in relation to both the Tenants' agreement and the replacement tenancy was based on a percentage of the total rent for the term. The replacement Tenant was paying a lower rent than the Tenants.

The Adjudicator found that, as a contribution to the losses suffered by the Landlord as a result of the Tenants' breach by leaving early, they should pay the difference between the two commission figures for the period of overlap giving a deduction from the deposit in favour of the Landlord of £280 in addition to the agreed deduction of £550.

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### ***Case Study Seventy- five:***

This case concerned a letting in which the Tenant had exclusive use of a room in a flat. She shared the use of the common parts with other Tenants. Those Tenants also each had a letting of one room and shared the common parts. The Tenant left the premises before the expiry of the term and the Landlord claimed rent due under the Tenancy Agreement. The Tenant denied liability for continuing rent for three reasons. First, because the Landlord had carried out work in her room or in the common parts without notice, which she claimed was a breach of a term of the agreement that the Landlord should permit quiet enjoyment of the letting; secondly, because of disrepair; and third, because the Landlord was bullying and intimidating and did not reply to emails. The Adjudicator found that the Landlord was entitled to retain the deposit against the Tenant's liability for unpaid rent unless the Tenant could show breaches of the Tenancy Agreement which either entitled her to regard the contract between them as brought to an end by the conduct of the Landlord or which could have given rise to a claim for damages against the Landlord. If there had been such a claim for damages, the Tenant would have been entitled to rely on the existence of this claim to set off against the Landlord's entitlement to the deposit. The Adjudicator found the Tenancy Agreement required notice to be given before entry into Tenant's room but not before entry into the communal parts. Only one occasion of entry into the Tenant's room was established, some notice had been given, and the purpose of entry was to carry out a repair about which the Tenant was concerned. In the circumstances, no breach of the term allowing quiet enjoyment was found. Similarly, entry into the communal parts without notice was to make a repair which all the Tenants wanted. It was not, in the circumstances, a breach of the term of quiet enjoyment. As for the want of repair, the Tenant had produced no evidence which showed that the problems described by the Tenant were due to breaches of the Tenancy Agreement by the Landlord. In respect of the allegations regarding bullying and harassing behaviour, the matters about which the Tenant had complained did not establish a breach of the Tenancy Agreement.

Accordingly, the Adjudicator found that the Tenant remained liable for unpaid rent and directed that the entire deposit be paid to the Landlord.

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### ***Case Study Seventy- six:***

The Landlord claimed to be entitled to retain £383.55 out of the deposit of £778.85 for the following reasons:

a) The Tenant left the flat, including the cooker, in an unclean condition and the Landlord incurred a cost of £128.55 for cleaning; b) The Tenant caused two mattresses to become stained during the tenancy, and the Landlord incurred a replacement cost of £255. The Tenant asserted that the cooker and the two mattresses were unclean at the commencement of the tenancy, and the Tenant was not therefore liable to compensate the Landlord.

Photographs and an inventory showed that the Tenant had failed to clean the flat satisfactorily. However, on the balance of probabilities, having regard to all the documentary records, the oven and the mattresses were unclean at the commencement of the tenancy. The Adjudicator held that the Landlord had actually and reasonably incurred cleaning costs, but that the cost of cleaning the oven must be excluded and the reasonable amount of cleaning costs recoverable from the Tenant was £100 including VAT.

The Adjudicator directed that £100 out of the amount in dispute be paid to the Landlord, and the balance of £283.55 to the Tenant.

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### ***Case Study Seventy- seven:***

The Landlord claimed to be entitled to retain £836.55 out of the deposit for the following reasons:

The Tenant damaged a kitchen worktop and the Landlord incurred a cost of £387.55 for replacement; The Tenant caused a hole in the upholstery of an armchair, for which the Landlord claims £69; The Tenant caused dirty marks on the carpet, and the Landlord incurred a cost of £120 for carpet cleaning; The Tenant caused marks and damage to paintwork, and the Landlord incurred a cost of £200 for painting and decorating; The Tenant left the bathroom in an unclean condition, and the Landlord incurred a cost of £60 for intensive cleaning of the bathroom.

The Tenant asserted:

That the damage to the worktop was the accidental result of a malfunctioning cooker; The condition of the armchair and paintwork was the same as at the commencement of the tenancy; The bathroom was not left in an unclean condition.

The Adjudicator found, on the balance of probabilities that the burn mark to the kitchen worktop happened because the Tenant's wife was surprised by the sudden breaking of the glass front of the oven which was part of the equipment provided by the Landlord. In the shock of the moment, including fear for the safety of her young child, she did something she would not normally have done i.e. left a hot pan on the worktop. Damage caused by the failure of an item of the Landlord's equipment was the responsibility of the Landlord, not the Tenant.

The other items of damage complained of, apart from the need for carpet cleaning, was not mentioned in the check out inventory, and was not proved. The proper amount of cleaning costs was the amount claimed: £120.

The Adjudicator directed the return of £120 to the Landlord and the balance to the Tenant.

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### ***Case Study Seventy -eight:***

The Landlord was retaining the sum of £310.50 for a) cleaning £120.00, and b) redecoration £190.50.

Directing that £183.50 be refunded to the Landlord and £127.00 to the Tenant, the Adjudicator found that the Landlord had provided sufficient evidence (Check-in and Check-out reports, and photos) to accept the cleaning charge. However, taking into account a "damp report", and the redecoration quote, the Adjudicator decided that 10% was a fairer reflection of the portion of the decorating costs that should be levied on the Tenant rather than the 30% being applied.

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### ***Case Study Seventy- nine:***

The Landlord was retaining the total deposit of £800.00 for a) redecorating £693.08, b) cleaning £57.50, and c) contribution to a new carpet £49.42. The Landlord notes that the damage was found once the Tenant had moved out.

Directing that the £800.00 be refunded to the Tenant, the Adjudicator noted that a) no Check-in or Check-out Inventories had been provided and b) although there were dated photos before the Tenant had moved in, the undated ones did not assist the Landlord's case.

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### ***Case Study Eighty:***

The Landlord was retaining the total deposit of £1,620.00 for a) washing machine £75.00, b) floor damage under oven £75.00, c) light bulbs £30.00, d) replacement little Henry bags £8.00, e) cleaning £165.00, f) timber floor £165.00, g) cleaning mattress etc £35.00, h) missing items £20.00, i) oven clean £64.00, j) DPC injection £575.00, k) specialist coating following DPC £247.00, l) time charge to remedy covenant breaches £225.00, and m) Check-out inventory £149.50.

Directing that £1,051.50 be refunded to the Landlord and £568.50 to the Tenant, the Adjudicator found that although the Landlord had provided ample evidence to substantiate her claim, she had not made any adjustment for fair wear and tear for the timber flooring.

With regards to the DPC problems, the Adjudicator decided that the report from the Landlord's husband (he managed the Property) was not sufficiently independent nor in sufficient detail to explain the damp problems. However, the Adjudicator did find that by failing to keep the gullies clear and allow the build up of debris, the Tenant had contributed to the problem by allowing flooding to occur.

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### ***Case Study Eighty- One:***

The Landlord was retaining £865.00 out of a total deposit of £1,850.00 for a) domestic cleaning £130.00, b) window cleaning £40.00, c) new lounge carpet £180.00, d) replacement lounge suite £250.00, e) rubbish clearance £50.00, f) carpet cleaning £135.00, and g) property maintenance £80.00.

Directing that £65.00 be refunded to the Landlord and £800.00 to the Tenant, the Adjudicator found that the Landlord had failed to provide any evidence of cost. Furthermore, it was evident from the Check-in inventory that the condition of many items in the Property did not warrant the costs the Landlord was seeking to impose.

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### ***Case Study Eighty- two:***

The Landlord was seeking to retain the total deposit of £675.00 because the Tenant did not give proper notice.

The Tenant's one year "Term" was coming to an end and out of courtesy she wrote to confirm she would be leaving. The Landlord sought to withhold the deposit quoting a clause of the Agreement which stated:

"The Tenant may bring the tenancy to an end after six months and before the expiry of the term by giving to the Landlord and the Landlord's Agent not less than two months written notice stating that the Tenant intends to terminate the tenancy and giving the date he wishes to leave the property".

Describing the claim as misconceived in the extreme, the Adjudicator directed that the £675.00 was to be refunded to the Tenant noting that this clause did not apply to an Agreement coming to the end of the "Term".

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### ***Case Study Eighty-three***

The Landlord claimed to be entitled to retain the whole of the deposit of £1,050 for the following reasons:

a) The Tenant failed to give notice to terminate the tenancy; b) The Landlord was unable to re-let the property for 4 weeks.

The Tenant alleged: a) That the tenancy came to an end by agreement with the Landlord, and no rent fell due thereafter; b) The Tenant had promptly paid all rent due in full, and had not committed any breach of any of the obligations of the tenancy.

The Adjudicator found that the Landlord had not agreed to release the Tenant from the tenancy, but had told him that his deposit would be withheld, and the Tenant had vacated without giving notice. The Landlord had been unable to re-let for 4 weeks, and was entitled to one further instalment of rent in the amount of £1,050.

The Adjudicator directed the return of the whole deposit of £1,050 to the Landlord.

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### ***Case Study Eighty-four***

The Landlord claimed for insurance premiums, and the Tenants responded that the clause in question was void under the Unfair Terms in Consumer Contracts Regulations 1999. The Adjudicator found that the clause in question was not unfair as service charges for insurance premiums and other matters are regulated by sections 18 and 19 of the Landlord and Tenant Act 1985 and section 164 of the Commonhold and Leasehold Reform Act 2002. The amount claimed by the Landlord was reduced as the Adjudicator decided that the premium was unreasonable.

The Adjudicator decided that the excess on an insurance claim was not recoverable, as s.11 of the Landlord and Tenant Act 1985 prevents a Landlord from transferring repairing obligations to the Tenant.

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### ***Case Study Eighty-five***

The Landlords sought a payment from the deposit to cover repairs and the replacement of missing and damaged items, cleaning, documentation and inventory costs and additional labour costs. The Tenant admitted that some small items were lost or broken during the tenancy but suggested that this was fair wear and tear. She said she left the flat clean and disputed the Landlords' entitlement to the documentation and inventory costs. The Landlords were able to produce an inventory signed by the Tenant, an independent check out report and receipts/invoices for their expenditure. The Adjudicator accepted the evidence of the independent check out report, and allowed most of the Landlords' expenditure. The only significant item not allowed was the cost of replacing an item when there was no evidence to explain why it was not cleaned.

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### ***Case Study Eighty-six***

The Landlord alleged that he was entitled to retain the sum of £1,067 out of the deposit of £1,384.62 for the following reasons:

a) The Tenant caused damage to the décor of the property, which the Landlord was obliged to redecorate, and the Landlord claimed £543; b) The Tenant left the property in an unclean condition, and the Landlord claimed £260 towards the cost of professional cleaning; c) The Tenant caused damage to vinyl sofa, and the Landlord claimed the cost of a new sofa in the amount of £189; d) The Landlord claimed £75 as the cost of a check out inventory.

The Tenant alleged:

a) That the Landlord inspected the property and caused decorators to carry out repainting work in the property before the tenancy came to an end, with the result that the Tenant was unable to rectify the state of décor and cleanliness before the end of the tenancy; b) That there was no need for redecoration, apart from a room affected by a water leak, which was not the Tenant's responsibility; c) That any cleaning that was necessary was caused by the untidiness of the Landlord's decorators; d) That the damage to the sofa was no more than fair wear and tear.

The Adjudicator found as fact that the Landlord had redecorated the whole property before the end of the tenancy, and that there was no evidence that would enable a finding to be made as to the condition that the property would have been in at the end of the tenancy if the Tenant had been given the chance to clean and redecorate where necessary. However, the Tenant had admitted some need for professional cleaning, for which the Adjudicator allowed £100. The Adjudicator also found that the Tenant was liable for damage to the sofa, and should pay three quarters of the cost of replacement, namely £141.75. The Landlord was not entitled to be paid for the check out inventory.

The Adjudicator directed that Tenancy Deposit Solutions Limited return the sum of £241.75 to the Landlord, and the balance of the amount of £1067 which was in dispute, namely £825.25 to the Tenant.

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### ***Case Study Eighty-seven***

The Landlord sought to recover the cost of topping up the heating oil tank at the end of the tenancy, and the Tenants denied that they had agreed to top up the tank. The tenancy agreement required the Tenants to pay for the oil used and the Adjudicator accepted the Landlord's claim.

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### ***Case Study Eighty-eight***

The Landlord made various claims for want of repair at the end of the tenancy, and also claimed one additional day's rent payment. The claims for damage and want of repair failed because the Landlord had provided no evidence by way of photographs, invoices receipts, or, indeed, information. In relation to the claim for a further day's rent, the Tenant had remained in the property for 5 days after the end of a full month of the term, but had only paid rent for 4 days. As the Landlord had provided no information about the circumstances of the coming of the tenancy to an end, however, he had not proved that the Agents had not agreed to accept 4, rather than 5 days rent.

The Adjudicator directed that the deposit should be returned to the Tenant.

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### ***Case Study Eighty-nine***

The Landlord sought to retain the deposit to cover repairs, removing rubbish, redecorating and damp/condensation. Only the claim for the work to deal with damp/condensation was contested. The Adjudicator allowed the cost of washing the walls with fungicide to remove the mould that had developed as a result of the Tenants' failure to heat and ventilate the property, but not the cost of installing ventilation fans in the kitchen and bathroom or the cost of additional insulation as this work was not the Tenants' responsibility.

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### ***Case Study Ninety***

The Landlord was seeking to retain the full deposit of £1,200.00 though she had only provided evidence for withholding £325.00.

The Adjudicator decided that as no evidence had been provided to substantiate the sum of £875.00, he directed it be refunded to the Tenant.

With regards to the three items being claimed, the Adjudicator found that a) the Tenant could not withhold £100.00 for curtains they had supplied, b) the Tenants were responsible for damaging three kitchen floor tiles (£80.00) and c) the carpet in the Property was new when the Tenants moved in. It was therefore not unreasonable for the Landlord to replace the carpet in one room (£145.00), which had been damaged by an iron burn, from the same place as originally purchased.

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### ***Case Study Ninety-one***

The Landlord sought to retain the sum of £389.68 from the deposit in respect of dilapidations at the end of the tenancy.

The Tenant sought the return of the outstanding amount.

The Adjudicator found that the entire amount in dispute should be returned to the Tenant. Although the Landlord had produced some items in support of the loss, namely an invoice and some receipts, as well as some photographic evidence at the end of the tenancy, there was no check-in and/or check-out inventory/schedule of condition/report, and that was a factor which was fatal to the Landlord's claim, particularly in light of the respective submissions of the parties. Accordingly the Adjudicator directed that the entire amount in dispute be returned to the Tenant.

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### ***Case Study Ninety-two***

The Landlord claimed to be entitled to retain the whole of the deposit of £1,500 for the following reasons:

a) The Tenant failed to pay monthly instalments of rent on the due dates, causing the Landlord to incur bank charges; b) The Tenant left the property and contents in a dirty and damaged condition, causing the Landlord to incur cleaning and repair costs.

The Tenant asserted: (i) That the property was left in cleaner condition than it was at the commencement of the tenancy; (ii) That the Landlord consistently failed to carry out necessary repairs throughout the tenancy, despite requests by the Tenant.

The property was left in cleaner condition at the end of the tenancy than it was at the beginning. All the Landlord's claims failed because of insufficient evidence, except the claim for £200 in respect of hiring a skip to remove rubbish left behind by the Tenant.

The Landlord had failed to carry out necessary plumbing work and repairs throughout the tenancy, and the Tenant was entitled to a set-off of substantially more than £200 against the Landlord's claim, which was therefore extinguished.

The Adjudicator directed that the whole deposit of £1,500 be returned to the Tenant.

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### ***Case Study Ninety-three***

The Landlord claimed to be entitled to retain the whole of the deposit of £475 for the following reasons: a)The Tenant left the property in an unclean condition; b)The Tenant left rubbish behind at the property; c)The Tenant caused or permitted the washing-machine to be damaged and lost.

The Tenant asserted: a) That the property was not completely clean at the commencement of the tenancy, and she left it as clean as at the commencement of the tenancy; b) That the washing-machine was old and never worked properly. It broke down shortly after the commencement of the tenancy, and the Landlord declined to maintain or repair it. c) She was obliged to force off the door to retrieve her washing, and then put it outside the property, where it was probably stolen.

Having regard to photographs, the property was not properly cleaned, and the Tenant had left rubbish behind which would have to be removed. In the absence of any invoices, estimates or costings, the value of cleaning work done by the Landlord was estimated to be £25, and the cost of removing rubbish a further £25. The Landlord had declined to maintain appliances in the property, and the Adjudicator found that the washing-machine had broken down, and had been stolen as the Tenant alleged.

The Adjudicator directed that £50 out of the deposit should be paid to the Landlord and the balance of £425 should be returned to the Tenant.

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### ***Case Study Ninety-four***

The Landlord was seeking to retain £641.81 out of the total deposit of £1,590.00 for outstanding rent.

Directing that the £641.81 be refunded to the Landlord, the Adjudicator found that although the circumstances surrounding the Tenant moving out early were unfortunate (an eviction notice and court order) and were not the responsibility of either party, the Tenant was still responsible to pay any outstanding rent which he acknowledged had been withheld.

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### ***Case Study Ninety-five***

The Landlord was seeking to retain the total deposit of £1,280.00 for a) £1,620.00 for loss of rent for the period 12 January to 07 March 2009, b) £323.75 for loss of introduction fee, c) £145.00 for loss of curtains, d) £825.00 for loss of rent, e) £32.00 for new keys.

Directing that the £1,280.00 be refunded to the Landlord, the Adjudicator found that the Tenant had moved out before the end of the 12 month fixed term and therefore remained liable for the loss of rent until new Tenants moved in. The Adjudicator did not consider the remaining items because the deposit was less than the rent owed.

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### ***Case Study Ninety-six***

The Landlord was seeking to retain £85.00 out of the total deposit of £1,473.67 for cleaning and maintenance of the common areas.

Directing that the £85.00 be returned to the Landlord, the Adjudicator found that he was entitled to retain the sum as claimed. The balance was refunded to the Tenant as the Landlord had already agreed this

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### ***Case Study Ninety-seven***

The Landlord was seeking to retain £339.86 out of a total deposit of £600.00 for a) £76.40 for vinyl flooring, b) £6.99 for a bath plug chain, c) £175.00 for repairs to a damaged door, d) £70.50 for repairs to a sink plinth, and e) £10.98 for grass seed.

Directing that £182.88 be refunded to the Landlord and £156.98 to the Tenant the Adjudicator noted that had the Tenant not been as forthright in his comments, the Landlord's claim would have failed as there was no Check-in or Check-out inventory.

As it was, the Adjudicator discounted all the sums being claimed for an administration/sourcing fee (which had not been explained or referred to a clause in the Tenancy Agreement) and the claim for a replacement door failed as the Landlord had only provided a photo showing a small part of the door and this did not convey the impression that the whole door required replacement. A contribution of £50.00 for a repair was however allowed.

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### ***Case Study Ninety-eight***

The Landlord was seeking to retain the £1,200.00 deposit which was addition to a sum of £2,438.26 which the Landlord argued the Tenant owed. The general headings were a) 817.01 for an outstanding gas bill, b) £908.25 by way of finance and administration charges, c) £325.00 for a washing machine, d) £315.00 for a new shed, e) £200.00 for a new shower door, f) £200.00 for re-turfing the rear garden, g) £555.00 for various headings of cleaning inside and out, and h) £317.99 for replacing other missing items.

Directing that the £1,200.00 be refunded to the Landlord (the Adjudicator's total came to more than the deposit), the Adjudicator found that the Tenant was in breach of several of her tenancy obligations, notably with regards to paying utility bills (causing a Pre-Pay electricity meter to be installed) and cleaning. However, the Landlord's failure to prove actual cost or that any of the work being claimed for had actually been done had severely hampered her claims.

Furthermore, the Adjudicator found that the Landlord's method of calculating sums due for failing to pay the rent on time amounted to a penalty. The Landlord was referred to the Office of Fair Trading publication entitled "Guidance on Unfair Terms in Tenancy Agreements" in this regard.

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### ***Case Study Ninety-nine***

The Landlord was seeking to retain the total deposit of £1,800.00 due to the Tenant departing the Property before the end of the term.

Directing that the £99.00 (Check-out fees) be refunded to the Landlord and £1,701 to the Tenant, the Adjudicator found that there was enough evidence to show that a) over 2 months notice was given which the Adjudicator decided was accepted by the Landlord, b) there was more than enough time (over two months) to find a new Tenant before the Tenant in this case departed, and c) the Landlord had given the Tenant just cause by her repairing obligation breaches which had been evidenced by correspondence and photographs.

The Adjudicator commented that he was amazed at the Landlord's submissions. Not once did the Landlord address the Tenant's reasons for vacating the Property. Merely stating that the Tenant moved out early and had failed to pay was insufficient especially when the Tenant had put forward the arguments regarding the condition of the Property.

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### ***Case Study One hundred***

The Landlord claimed the sum of £514.26 from the total deposit of £1,980. This was to cover the costs of replacement fridge shelf, coffee table, two mattresses, blinds and cleaning of the property and the carpets. The Tenant challenged the Landlord's assertions saying that there was no joint check out and he was first notified of the claim 6 weeks after the end of the tenancy. The Adjudicator examined all the evidence and determined that the sum of £414.38 should be refunded to the Tenant.

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### ***Case Study One Hundred and one***

The Landlord was seeking to retain £1,374.00 out of a deposit of £2,146.00 for a) £197.00 for lost rent b) £877.00 for the maintenance /cleaning/replacement of broken things etc, c) £250.00 for redecoration, and d) £50.00 to replace the main bedroom blind. He is happy for the balance to be refunded to the Tenant.

Expressing great sympathy for the Landlord due to the photos and list of problems produced after the Tenant had vacated, the Adjudicator refunded the full deposit to the Tenant because there was no Check-in Inventory or photos against which he could make a comparison. It was quite simply the word of the Tenant, who submitted that the Property was in the same condition and/or better, against that of the Landlord who, with some evidence, submitted it wasn't.

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### ***Case Study One Hundred and two***

The Landlord was seeking to retain the total deposit of £550.00 for a) £240.00 for two days decorating, b) £150.00 for a new stair carpet, c) £25.00 for cleaning, d) £50.00 for painting and decorating materials, e) £85.00 to refix a radiator. There was also claim for losses totalling £1,120.00.

Directing that the £550.00.00 be refunded to the Tenant, the Adjudicator found that the Landlord had not provided signed Check-in or Check-out inventories. Furthermore, the list of standard charges did not prove a) actual cost or b) that any work had in fact been done.

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### ***Case Study One Hundred and three***

The Landlord's claim for the cost of new carpets, cleaning and the replacement of lost and damaged items was supported by an inventory and a check out report. The Tenants did not dispute the Landlord's evidence on these matters, and the Adjudicator allowed the claim after making an allowance for betterment.

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### ***Case Study One Hundred and four***

The Landlord claimed against the deposit in respect of various items of disrepair and a missing piece of furniture at the end of the tenancy. He referred to the differences between an Inventory made in 2005 and a check-out report in 2009. The Tenant agreed that the Landlord was entitled to make some deductions. Where there was agreement, the Adjudicator directed that payment for those items be made to the Landlord. Other items were disputed. In particular, it was disputed that the items of disrepair had happened during the tenancy. The tenancy was a joint tenancy which had been entered into in 2008. Between the 2005 Inventory and the end of the tenancy there had been at least one other joint tenancy involving some of the same people but also others.

In respect of the disputed items of disrepair, the Adjudicator found that the Landlord had not proved that the damage happened since the grant of the last tenancy in February 2008. Furthermore, taking into account the length of time that the Property had been let and its overall condition both in 2005 and at the end of the tenancy, the Landlord had not established that the damage was other than fair wear and tear. One of the items involved damage to a laminate floor that had already been shown as marked and scratched in 2005. The Adjudicator also found that the Landlord had not proved that the cost of repairing the additional damage would increase those costs that he would have had to have paid anyway if he decided to treat the floor, and he had not proved that he intends to carry out the work. In relation to the missing item of furniture, there was no evidence that it was still in the Property in 2008 when the last joint tenancy began. Accordingly, the Landlord did not establish that the Tenant was liable for its removal.

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### ***Case Study One Hundred and five***

In this case, the fixed term of the tenancy agreement had expired and the Tenant had been holding over. She then gave one month's notice to leave the premises. The Landlord argued that the Tenant was required under the terms of the Tenancy Agreement to give 2 months notice to leave the premises. She therefore withheld the deposit in compensation for one month's unpaid rent.

The Tenant claimed that she had a periodic tenancy under the Housing Act 1988 and that the provision of the Tenancy Agreement which required 2 months notice was ineffective. The

Adjudicator found that the Tenant's submissions were correct. Section 5(3) (a) to (e) of the Housing Act 1988 sets out certain characteristics of the periodic tenancy which arises as a matter of law at the end of a fixed term. This includes that the terms of the periodic tenancy are the same as those of the fixed tenancy "except that any term which makes provision for determination by the Landlord or the Tenant shall not have effect while the tenancy remains an assured tenancy". A clause of the Tenancy Agreement which requires two months notice is one which "makes provision for" determination by the Tenant and therefore it does not have effect. Because the notice requirement was ineffective, the Tenant was entitled to end the tenancy at the end of any period of the tenancy provided that she gave at least 4 weeks notice (required by the Protection from Eviction Act 1977).

The Adjudicator found that the deposit should be returned to the Tenant.

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### ***Case Study One Hundred and six***

The Landlord was seeking to retain the total deposit of £475.00 for outstanding bills and painting.

Refunding the £475.00 to the Tenant the Adjudicator noted the complete lack of any evidence to substantiate the case. He also noted as a clause in the Agreement that the Tenant's only cost was the rent.

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### ***Case Study One Hundred and seven***

The Landlord was seeking to retain £629.50 out of the total deposit of £1,470.00 for a) £92.00 for the Check-out Inventory, b) £150.00 for cleaning + £100.00 for making good, and c) £287.50 for a washing machine.

Refunding £50.00 to the Landlord (as a contribution for the unproven Check-out Inventory costs) and the balance to the Tenant, the Adjudicator found that the Landlord had not provided any evidence to prove that the broken washing machine was due any negligence by the Tenant (who had provided a note from the repair man stating that the breakdown was not the Tenant's fault). Furthermore, no proof had been provided to substantiate the cleaning and making good charges.

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### ***Case Study One Hundred and eight***

The Landlord was seeking to retain the total deposit of £2,580.00 for a) £160.00 for cleaning, b) £428.82 for outstanding rent, and c) £2,037.52 for damage at the Property.

Refunding £315.00 to the Landlord (for items the Tenant acknowledged or the Adjudicator decided she was responsible for) the balance was refunded to the Tenant.

The Tenant had demonstrated by way of photographs that the condition of the Property at commencement of the term was not as the Landlord was asserting in his unsigned Check-in report. Furthermore, the Landlord had not allowed the Tenant to attend the Check-out inspection. The Adjudicator noted that this raised the question why and weakened the Landlord's case, as there was no agreed condition at the start and end of the tenancy. The result was that the cleaning claim and most of the damage claims failed.

The Tenant had left early due to an ongoing problem with the boiler and leaks. This had been a major problem from day 1. The Tenant twice gave notice that she would be withholding rent and also asserted that the Property was not habitable and the Landlord was therefore in breach of the

Agreement. Taking this into account as well as the documented history of the Landlord's apparent disinterest for much of the term and his acceptance that the Tenant could move out early, the Adjudicator decided that the outstanding rent was not due.

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### ***Case Study One Hundred and nine***

The Landlord claimed to be entitled to retain the whole of the deposit of £500 for the following reasons:

a) The Tenant failed to give notice to terminate the tenancy; b) The Tenant left the property in an unclean condition, and left rubbish behind; c) The Tenant caused damage to the carpets, blinds and fire alarm, and the internal decoration; d) The cost of necessary cleaning, replacement, redecoration and repair would exceed the amount of the Tenant's deposit.

The Tenant asserted: a) That he cleaned the property, repaired the blinds, repainted the whole property, and had the carpets professionally cleaned; b) That the Landlord delayed for a week in taking back the keys of the property. The Adjudicator found for the Landlord in respect of the damage and need for redecoration, apart from the claim for the cost of replacing all the carpets, which he decided could be cleaned, and the cost of replacing fire alarm batteries, which was not proved to be the Tenant's fault. He found the total amount recoverable by the Landlord to be £707. He held that the Landlord had accepted the Tenant's implied offer of surrender by re-taking possession of the property, and that there were no arrears of rent.

The total recoverable by the Landlord from the Tenant exceeded the amount of the deposit. The Adjudicator directed that the whole of the deposit of £500 be returned to the Landlord.

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### ***Case Study One Hundred and ten***

The total sum of £725.00 paid to the Landlord as Deposit, at the commencement of the tenancy, is currently in dispute.

The Tenant agrees to reasonable deductions to be made to pay for any damage that he may have caused, but he considers the Agents' claims to be unfair and unreasonable. On the other hand, the Agents submit that they are entitled to the full amount of the Deposit to compensate towards losses suffered for a total amount of £1,335.10 and that the Tenant will still owe them £410.14.

On the following grounds of several mismatches between the estimates provided, the check-out report and the Agents' submissions and the Tenant was not contractually bound under the Tenancy Agreement for the Agents' dilapidations costs.

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### ***Case Study One Hundred and eleven***

The Agents submitted on behalf of the Landlord that "the Property was left in a very bad state and required a lot of work before re-letting". The Tenant stated that he was informed of the items in dispute orally by the Agent and that the items consisted of charges for a full professional clean, painting, missing cutlery and delay in re-letting the property. The Tenant denied liability for all the items, with the exception of the claim in respect of cleaning. As to that, he was willing to accept that it was an appropriate item, but queried the high cost.

The Adjudicator found that although the Agents stated that much work was required at the Property before re-letting, neither the Agents nor the Landlord had submitted any documents

which showed that the Landlord had suffered any expenditure in consequence. There were no check-in or check-out Inventories, no photographs, no receipts or invoices nor any other document relating to the work done which might have assisted an Adjudicator to decide on the claim. Moreover, the Tenancy Agreement provided that no deductions should be made from the Deposit unless or until the reason for the nature of the deductions had been notified in writing to the Tenant. No such document had been submitted. It followed that there was no information about what cleaning was required, what painting was required, what cutlery was said to be missing at the end of the tenancy. As for damages or delay in re-letting, this was not deductible under the Tenancy Agreement.

The Adjudicator considered the fact that the Tenant indicated that he was willing to pay a reasonable charge for cleaning. However, the charge made by the Landlord for cleaning had been explained to him as “a full professional clean” whereas the Tenancy Agreement required cleaning to a good standard. In the absence of any adequate explanation or supporting documentation from the Landlord, the Adjudicator was not satisfied that the Landlord had proved for the purposes of this adjudication that “a full professional clean” was necessary.

The Deposit was returned to the Tenant in its entirety.

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### ***Case Study One Hundred and twelve***

The Landlord was originally seeking to retain £299.65 for a) £150.00 repairs, and b) £149.65 for a locksmith call-out.

The Landlord conceded that the £150.00 for damage should be refunded to the Tenant.

The Adjudicator decided that the £149.65 for the locksmith call-out should also be refunded to the Tenant as the locksmith could not contact her to make an appointment, so he just turned up as requested by the Landlord’s agent.

The Adjudicator also noted that the 20% commission shown on the invoice to be paid by the locksmith to the Landlord’s agent is not a cost that a Tenant should bear in any event.

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### ***Case Study One Hundred and thirteen***

The Landlord was seeking to retain the £562.00 out of a total deposit of £1,200.00 for a) broken kitchen tiles and b) TV aerial and booster.

Directing that the £562.00 be refunded to the Tenant, the Adjudicator found that the TV aerial and booster were not mentioned on the Inventory nor had any proof of cost been provided.

The claim for the tiles failed because the Adjudicator was not convinced by the evidence provided by the Landlord that the hairline cracks to the 11 damaged tiles were anything more than fair wear and tear. Furthermore, although the Landlord had provided a quote for replacing all the tiles in the kitchen, he had not provided any evidence to demonstrate that any work had been done.

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### ***Case Study One Hundred and fourteen***

The Landlord was seeking to retain £800.00 out of a total deposit of £1,890.00 for a) £200.00 for cleaning, and b) £600.00 for repainting.

Refunding the £800.00 to the Landlord the Adjudicator found that there was sufficient evidence to prove that the Tenant had left the Property in a condition that required cleaning and redecorating. This included the Tenant's failure to return the Check-in Inventory (despite repeated requests) which was subsequently found by the cleaner post departure.

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### ***Case Study One Hundred and fifteen***

The Landlord was seeking to retain more than the disputed sum of £1,170.00 for a) £75.00 for kitchen cupboard repair, b) £200.00 for repainting the Property c) £250.00 for cleaning the Property, and d) £1,322.30 for unpaid utility and council tax bills.

Directing that the £1,170.00 be refunded to the Landlord, the Adjudicator found that the Landlord had provided signed (by the Tenant) Check-in and Check-out inventories prepared by an independent company as well as receipts/bills, showing that the Landlord was owed more than the deposit being retained.

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### ***Case Study One Hundred and sixteen***

The Landlord was seeking to retain the £600.00 deposit for unpaid rent as the Tenant departed one month early.

The Adjudicator found that, as the term was for 6 months with no break clause and the Tenant vacated a month early, the Tenant remained liable for the remaining month. The deposit was refunded to the Landlord.

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### ***Case Study One Hundred and seventeen***

The total sum of the Deposit paid to the Landlord at the commencement of the tenancy was £900.00. The sum currently in dispute is £870.00.

The Tenant submits that he agrees to pay the Landlord £200.00 to compensate towards the cost of general cleaning of the Property, but denies any further liability. The Agents seek to retain the total amount in dispute, to compensate towards losses arising as a result of the Tenant's breaches of the Tenancy Agreement relating mainly to (i) damages caused, (ii) professional cleaning and (iii) additional costs incurred to arrange for a second check-out.

Tenancy Deposit Solutions Ltd to return:

a) The total sum of £215.00 to the Agents; b) the total sum of £655.00 to the Tenant on the grounds that (i) there are mismatches between the Agents' submissions and the findings of the Inventory clerk, (ii) lack of documentary evidence in relation to the additional costs incurred to arrange a second check-out and (iii) the Tenant accepts that the Property needed further cleaning.

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### ***Case Study One Hundred and eighteen***

The Landlord claimed to be entitled to retain the whole of the deposit of £530 for the following reasons: (i) The Tenant was liable for a charge of £105 to cover inventory verification; (ii) The Tenant was liable for the cost of professional steam cleaning of carpets in the amount of £95; (iii) The Tenant left the property in an unclean and damaged condition, the grass not mown and a garden wall damaged, and the Landlord had incurred expense as a result.

The Tenant asserted: (i) That the property was generally left clean and undamaged and in the same condition as at the commencement of the tenancy; (ii) That the damage to a garden wall was not the Tenant's responsibility. The terms of the tenancy agreement required the Tenant to pay the specific sum of £105 for inventory verification, and that satisfied the requirement of reasonableness in the Unfair Contract Terms Act 1977. There was no evidence that the Landlord had in fact had professional steam cleaning of the carpets carried out, and therefore the claim for £95 failed. The garden wall was part of the premises for which the Tenant was made liable by the terms of the tenancy, and the damage, on the balance of probabilities, had been done by the Tenant or a visitor to the premises for whom the Tenant was responsible. The Landlord was entitled to £340. Other small claims succeeded, and the total amount which the Landlord was entitled to recover from the Tenant was £552, which was more than the amount of the Tenant's deposit.

The Adjudicator directed that the whole deposit of £530 be paid to the Landlord.

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### ***Case Study One Hundred and nineteen***

The Landlord was seeking to retain £1,038.00 of the total deposit of £1,125.00 for a) £165.00 for a professional and carpet clean, b) £433.00 to supply and fit a new hob, c) £275.00 for a new carpet in bedroom 2, and d) £165.00 to paint damaged door frames. The Landlord was happy for the balance of £87.00 to be refunded to the Tenant.

The Adjudicator decided that apart from £165.00 for the professional and carpet clean, the Landlord had not provided sufficient evidence for the remainder of the items. There was no Check-in and Check-out inventory; no evidence had been provided to warrant the hob (cost based on an online quote) or carpet being replaced; and there was nothing to show damaged door frames. The Balance of £960.00 was therefore refunded to the Tenant.

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### ***Case Study One Hundred and twenty***

The Landlord was seeking to retain the deposit of £515.00 as a contribution to the many items of decoration, repair etc which total £1,251.00.

Directing that the £515.00 be refunded to the Tenant, the Adjudicator found that there was no evidence to substantiate any of the costs. Furthermore, the Tenant had been in residence for 6 years and there was no indication that any allowance had been made for fair wear and tear. Added to this was the lack of a proper Check-in and Check-out inventory.

Finally, the Tenant had provided a detailed rebuttal to each of the items being claimed by the Landlord, many of which were the result of her failure to properly maintain the Property during the term of the tenancy.

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### ***Case Study One Hundred and twenty one***

The Landlord invoiced the Tenant for painting, cleaning, an inventory check and keys. The item for the keys was clearly an error. The Tenant challenged all of the Landlord's charges. There was no evidence from the Landlord to support its claim and as a result the Adjudicator directed that the sum in dispute be paid to the Tenant.

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### ***Case Study One Hundred and twenty two***

The Landlord was seeking to retain the full deposit of £700 as a contribution for a) £300.00 to replace and paint a bathroom door, b) £60.00 to remove furniture left behind, c) £450.00 to paint the Property, and d) £350.00 to replace missing furniture.

Apart from £200.00 as a contribution to the door and furniture suggested by the Tenant, the remainder of the claims failed because a) the Landlord had made no adjustments for fair wear and tear after 6 years of occupation by the Tenant, b) the Check-in Inventory was one page, very brief, and there was no Check-out Inventory and c) there was a list of budgets, but no evidence to show how the budgets had been arrived at or if any work had in fact been done.

The balance of £500.00 was therefore refunded to the Tenant.

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### ***Case Study One Hundred and twenty three***

The Landlords were seeking to retain an outstanding £253.10 for a) £150.00 rubbish clearance, b) £20.10 late rent interest, and c) £83.00 skip hire.

The Adjudicator awarded the £150.00 be refunded to the Landlords as there was ample evidence in justification including photos, Check-out inventory and correspondence leading up to the Tenant vacating the Property and for a period of time after.

The balance of £103.10 was refunded to the Tenant because a) there was no calculation for the late rent interest and b) the £83.00 had been for work outside the Agreement and should not therefore have been dealt with as a deposit matter.

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### ***Case Study One Hundred and twenty four***

The Landlord was seeking to retain £544.00 for a) £140.00 for Carpet Cleaning, b) £100.00 to the replace the bathroom carpet due to soiling, c) £220.00 for a new Hearth in the front room, and d) £80.00 to clean the Property throughout.

The Check-out inspection had been carried out by the Landlord without the Tenant being present. There were also no Check-out photos against which to compare with the Check-in ones. The Tenant disagreed with the Landlord's view of the majority of the items.

The Adjudicator directed that £100.00 be refunded to the Landlord as a contribution to cleaning and a broken tile on the hearth which the Tenant had acknowledged. The claim for a new hearth failed due to lack of evidence. The new carpet claim failed due to inconsistencies between the descriptions in the Check-in inventory (carpet) and on the invoice provided which described the work as being to vinyl.

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### ***Case Study One Hundred and twenty five***

The Landlord was seeking to retain £334.08 out of the deposit for a) £169.05 for glass to a porch window, b) £41.03 for a replacement door to a washing machine, c) £24.00 for cleaning windows, and d) £100.00 administration charge for the above. The Landlord confirmed sending the Tenant a cheque for the balance of £260.92.

Directing that the balance of £334.08 also be refunded to the Tenant the Adjudicator found that there was no Check-in or Check-out Inventory nor any photos to show the condition of the Property at commencement of the tenancy. Also, a) the Agreement did not cover responsibility to common areas where the porch window was, b) there were conflicting explanations for the damaged glass, c) the window was over 10 years old, d) and there were several flats in the block.

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### ***Case Study One Hundred and twenty six***

The Landlord was seeking to retain the deposit of £850.00 for a) £818.55 outstanding utility bills, b) £80.00 to clean the carpets, and c) £139.75 for 5 days rent. Awarding £130.25 to the Tenant and £719.75 to the Landlord, the Adjudicator decided that the Landlord's claims for cleaning and outstanding rent succeeded in full. However, only £500.00 was refunded to the Landlord as a contribution to the utility charges (which the Tenant had never paid) because although only one quarterly bill was sent to him to cover all the flats in the block which the Landlord then apportioned, he had never sent a copy of the original bill to the Tenant as requested. He had merely sent a new invoice from himself.

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### ***Case Study One Hundred and twenty seven***

The Landlord was seeking to retain the £1,200.00 for unpaid rent.

Awarding £1,200.00 to the Tenant the Adjudicator decided that the Tenancy Agreement for this dispute (Flat B) had not been changed for Flat A which the Tenant moved into after two weeks due to problems with Flat B. As a result, the Adjudicator found that there was no dispute regarding a refund for Flat B which he refunded to the Tenant.

The Adjudicator noted that the Landlord had not put in place a Tenancy Agreement for Flat A. The Adjudicator also noted that there were several other breaches and failures to comment on points raised by the Tenant all of which was a reflection on the poor management by both the Agent and Landlord.

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### ***Case Study One Hundred and twenty eight***

The Landlord was seeking to retain the deposit of £758.33 for reinstating the Property following the Tenant's departure. Awarding £160.33 to the Tenant and £598.00 to the Landlord, the Adjudicator decided that the Landlord had proved (by way of photos taken before and after, as well as contemporaneous documents) that the condition of the flat warranted the specialist cleaning to remove all the mould. However, nothing had been provided to show what the £160.33 was being retained for so it was refunded to the Tenant.

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### ***Case Study One Hundred and twenty nine***

The Landlord was seeking to retain the £433.000 as a contribution to the Landlord's Agents fees for moving out early.

The Adjudicator decided that the Landlord was entitled to retain the deposit because it was a cost she had incurred as a result of the Tenant moving out early.

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### ***Case Study One Hundred and thirty***

The Landlord was seeking to retain £757.00 for a) £50.00 for removal of rubbish, b) £50.00 for extra cleaning, c) £50.00 for cleaning sofas and dry cleaning curtains, d) £50.00 for cleaning the garden, e) £350.00 for repairing the toilet cistern, and f) £207.00 for unblocking a drain.

Directing that £528.50 be refunded to the Tenant and £228.50 to the Landlord, the Adjudicator found that there was sufficient evidence to show that there was rubbish that needed clearing, the garden needed cleaning and some internal cleaning was required. Furthermore, there was evidence showing that there was one drainage call-out. However, as the toilet cistern was already noted as being damaged on the Check-in Inventory, the Adjudicator did not consider that the Tenant should bear the cost of replacing the complete toilet which would have required replacement in any event.

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### ***Case Study One Hundred and thirty one***

The Landlord was seeking to retain the full deposit of £950.00 for furniture storage charges.

Directing that £950.00 be refunded to the Tenant, the Adjudicator found that a) no evidence of cost had been provided, b) nothing was said at the time the parties agreed that the Landlord would remove the furniture to storage, and c) there was nothing in the tenancy Agreement that allowed the Landlord to offset sums for storage.

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