

## Tenancy Deposit Protection Adjudication Case Study Bulletin Sixteen: 27<sup>th</sup> July 2009

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

The Landlord claimed against the Deposit on the grounds that the Property was insufficiently clean at the end of the letting, redecoration was required, the garden had been left untidy and replacement glass was needed in the bedroom door. The Tenant denied liability. The Adjudicator found on the basis of invoices, photographs and a check-in Inventory and check-out report that the Landlord had established that general cleaning and an oven clean was required. The Landlord did not prove that the standard of decoration at the end of the letting was other than fair wear and tear of decorations that were already somewhat damaged. The Tenant had left rubbish and weeds in the garden such that the garden was not in good order and condition. As for the glass door, the Tenant said that it had broken because the hinge was damaged and the door caught on the floor so that there was a strain on the glass. The Tenant said she had complained about this to the Agents, which the Agents denied. Whatever the position in relation to the hinge, the Adjudicator found that as the invoice referred to skimming the bottom of the door to achieve clearance of the floor, it was probable that the door had been catching, so straining the glass. The Landlord had not proved that the breakage of the glass in the door was other than fair wear and tear of a door which was not operating correctly.

The Adjudicator awards that the Landlord is entitled to claim £156.25 from the Deposit and the Tenant is entitled to the balance of £408.75.

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

The Landlord claimed against the Deposit for cleaning, repainting and resurfacing of a wooden floor in a high value two bedroom flat in an expensive area. The Tenant accepted some liability for the failure to clean and for the need for repainting, but not in the sums claimed by the Landlord. He denied liability for scratches to the wooden floor. The Adjudicator found that the Tenant was liable for the costs of a professional clean, but the costs claimed were quite high. No explanation had been given by the Agents of the number of hours taken nor as to what was done. Nor had the Agents produced any competing quotations for the work. The Adjudicator allowed 10 hours cleaning at £12 per hour plus a £40 oven clean. This reduced the claim for cleaning by nearly £60. In respect of repainting, the need for this was caused by unrepaired screw holes in the wall. Although the costs claimed were high, a competing quotation had been obtained which was more. The Adjudicator found that the Tenant was liable for the cost of repainting, although this had to be reduced by 30% for betterment. The walls had been somewhat worn at the start of the letting and the Landlord had, after the work was done, fresh newly painted walls which would last longer than the former paintwork would have.

In respect of the floor, the Adjudicator found that there was an additional scratch which had not been present at the start of the letting. However, the Landlord had not proved that the scratch had made the condition of the floor noticeably worse nor that the Tenant's scratch required the floor to be resurfaced whereas the other scratches did not. The Landlord had therefore failed to make out her claim in respect of the work to the floor.

The Adjudicator decides that the Landlord is entitled to receive £429 from the Deposit and the Tenant is entitled to the balance. Therefore the Adjudicator awards £429 to the Landlord; and £2,033 to the Tenant.

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

The Landlord claimed the costs of the attendance of the Inventory clerk under a clause of the Tenancy Agreement. The costs for which the Tenant was said to be liable were “check-out costs”. The Tenant had not been invited to participate in any check out process and he had not been told that the final inspection of the property by the Agents was in fact the completion of a check-out report for which the Tenant would be expected to pay. The Adjudicator found that the term “check-out costs” should be interpreted in the light of the other provisions of the Tenancy Agreement, one of which referred to the consequences of failure by the Tenant to attend the check-out appointment so that it had to be rescheduled. This suggested that the Tenant was expected to be at the check out appointment and, indeed, had a right to do so. It was also consistent with the requirement on the Tenant to pay for the check-out report that he should be allowed to participate in the check-out process. The Adjudicator found that the expression therefore referred to the costs relating to a check-out process with which the Tenant can choose to be involved and not merely an investigative process undertaken by the Agents or the Landlord after the Tenant had left the Property and the tenancy was over.

Furthermore correspondence about the attendance of the Inventory clerk did not make clear that the appointment was one falling within the Agreement. The Adjudicator found that it did not do so.

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

The Landlord claimed to be entitled to retain the sum of £1,324.21 out of the deposit for the following reasons: (i) The Tenant caused stains on carpets in the bedroom and lounge and the Landlord had been obliged to replace the carpets at a cost of £1,075; (ii) The Tenant failed to look after two houseplants, each of which was worth £30, and the Landlord had therefore suffered loss of £60.

The Tenant asserted: (i) That the carpets were not fit for their purpose in that they were not adequately treated against staining, and were impossible to keep free of stains in ordinary use; (ii) That she was under no obligation to maintain the Landlord’s plants, but that she watered them when she had time to do so; (iii) That her quiet enjoyment of the property was disturbed by infestations of mice and ladybirds, and by the need to deal with utilities suppliers, who were erroneously told by the Landlord’s agent to put the services in the Tenant’s name. The Tenant was in breach of covenant in causing stains to the carpets, which cost £1,075 to replace. The life of pale coloured carpets in a rented property was no more than 4 years, and the life of the replaced carpets was prolonged by 2 years, and the Tenant should therefore pay one half: £537.50. The Tenant had a duty not deliberately to damage the Landlord’s houseplants, but no positive duty to maintain them. The claim for the cost of the houseplants therefore failed. The matters complained of by the Tenant did not amount to breaches of the implied covenant of quiet enjoyment and the Tenant was therefore not entitled to any set-off against the Landlord’s claim.

The Adjudicator directed that out of the sum of £1,324.21 held by Tenancy Deposit Solutions Limited the sum of £537.50 be returned to the Landlord and the balance of £796.71 be returned to the Tenant.

### **Case Study Five:**

An amount of £750.00 was paid to the Landlord as Deposit at the commencement of the tenancy and £296.00 is currently in dispute. The Tenant denies any liability towards the Landlord under the Tenancy Agreement and submits that he is entitled to be reimbursed the total amount in dispute. The Landlord submit that he is entitled to make deductions from the Deposit to compensate towards the “*costs involved in returning the property to the condition that it was handed to them in October 2007*”, relating mainly to the garden, the kitchen and bathroom. The Adjudicator, having carefully considered the submissions of the parties and the documents provided to them, decides and directs to return the total sum of £296.00 to the Tenant in as much as, the Landlord has failed to demonstrate that the Tenant has breached the Tenancy Agreement and consequently, that he has suffered losses. In addition, The Adjudicator find the Landlord to be in breach of the Tenancy Agreement by failing to carry out the checking out procedure on the last day of the tenancy and in the Tenant’s presence.

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### **Case Study Six:**

The Landlord’s mortgage lender began possession proceedings and wrote to the Tenants to let them know that the property was being repossessed. Before they were evicted the Tenants found a new tenancy, but in order to fund a new deposit they stopped paying their rent. The Adjudicator found that the Tenants were liable to pay rent until they moved out, and directed that the deposit be paid to the Landlord.

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### **Case Study Seven:**

The Tenant asked the Landlords to deduct one month’s rent from the deposit during the tenancy, and at the end of the tenancy the Landlords claimed the balance of the deposit for cleaning repairs and decorating. Having considered the evidence, which included photographs taken by the Landlords, the Adjudicator allowed part of their claim. He found that the balance of the Landlords’ claim was either for matters that were their responsibility under s.11 of the Landlord and Tenant Act 1985 or ordinary wear and tear for which no claim could be made against the Tenants.

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### **Case Study Eight:**

The Landlord, who had let the Property unfurnished, had some belongings in the garage. The Tenant wanted to use the garage, which was part of the letting. The Landlord’s items were in the way. After several requests to the Landlord to remove these items from the Property, the Tenant threw them away. The Landlord claimed against the Deposit for their value.

The Tenant had deducted from the rent the cost of a removal van for taking the items to the tip and for the cost of a removal van which the Tenant had used to transport the items to the tip. The Landlord claimed this as unpaid rent. The Adjudicator found that as this was an unfurnished letting, the Tenant was not obliged by the Tenancy Agreement to look after the items left in the garage. Nor did the Tenant’s conduct arise out of the relationship of Landlord and Tenant. The Adjudicator found that the Tenancy Agreement did not permit a deduction from the Deposit in respect of a claim falling outside the Tenancy Agreement. The Adjudicator made no further findings in relation to this dispute. On the other hand, it was a breach of the Landlord’s implied duties under the Tenancy Agreement to have left them the items in the garage and the Tenant was entitled to remove them from the Property, whether or not she was entitled to throw them away. The Adjudicator found that she could set off the cost of the removal van from the rent.

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

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***Case Study Nine:***

The Landlord claimed a payment from the deposit for cleaning, decorating, repairs and renewing light bulbs. An Inventory, a Check Out Report and photographs were produced. The Adjudicator accepted the evidence of the Check Out Report and allowed the Landlord's claim where it was supported by the Report.

For the reasons given above the Adjudicator finds that from the £1523.08 held £198 should be paid to the Landlord and £1325.08 should be paid to the Tenants.

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***Case Study Ten:***

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 overheating. 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. Therefore the Adjudicator awards that the £600 held should be paid to the Tenant.

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***Case Study Eleven:***

The Landlord claimed to be entitled to retain £540 out of the deposit of £1,000 for the following reasons: a) The property was left by the Tenant in a damaged and unclean condition and required cleaning and redecoration, b) The Tenant lost or disposed of various items of the Landlord's property, c) The Tenant claimed that the property was left in good clean and undamaged condition.

The Landlord produced no evidence of the cost of rectifying any loss or damage apart from estimating the time which he had spent in redecorating at 4 days. The Adjudicator assessed the value of his labour at £160 and materials at £15.

The Adjudicator accepted that the Tenant had lost or disposed of items of the Landlord's property, and, in the absence of any evidence of value, estimated the amount at £35. The Adjudicator directed that £210 be paid to the Landlord, and the balance of £790 to the Tenant.

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***Case Study Twelve:***

The Landlord claimed to be entitled to retain the whole of the deposit of £595 for the following reasons: (i) The Tenant left the property in unclean condition and failed to have the carpets professionally cleaned, and the Landlord incurred cleaning costs of £177.98; (ii) The Tenant caused burn marks on the carpet of the reception room, and the Landlord claimed compensation in the amount of £215.77; (iii) The Tenant caused a staircase hand rail to be removed from the wall, for which the Landlord claimed £175 plus VAT, total £201.25. The Tenant claimed that the property was thoroughly cleaned at the end of the tenancy, that the burn marks were caused by the open fire and inadequate spark protection, and that the hand rail was not removed.

The Landlord was entitled to the cost of the cleaning the carpets, but not the property generally, which was adequately cleaned by the Tenant. The burn marks to the carpet were fair wear and tear, and the result of the Landlord's failure to provide adequate spark protection for a vulnerable nylon carpet in breach of the covenant implied by Section 11 of the Landlord & Tenant Act 1985 in respect of an installation for space heating. The hand rail was not removed from the property.

The Adjudicator directed the return of £151.98 to the Landlord and £443.02 to the Tenant.

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

In this case the Landlord claimed against Deposit for unpaid rent and a number of items of disrepair damage and want of cleaning at the end of the tenancy. The Tenant denied liability and stated that she had carried out cleaning and repair. The Adjudicator found that the Landlord was entitled to recover unpaid rent. Furthermore, having regard to the Landlord's photographs and the Agents' report of condition at the end of the letting, the Adjudicator found that the Tenant was liable for some of the items of want of cleaning and disrepair. The Adjudicator directed that some of the deposit should be paid to the Landlord and the balance should be returned to the Tenant.

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

The Landlords claimed for 16 different items of damage and disrepair, including complaints that the Tenant had re-floored the bathroom and boarded the loft. The Adjudicator found that the Tenant was liable for items of cleaning and repainting at the property, but not for other claims. In particular, even though the Tenancy Agreement did not refer to fair wear and tear, the Adjudicator found on a proper construction of the agreement that the Tenant was not liable for this. If the Agreement had provided that the Tenant was liable for fair wear and tear, this would have been an unfair term under the Unfair Terms in Consumer Contracts Regulations 1999. There was no evidence that the new floor in the bathroom or boarding in the loft had caused a loss to the Landlord. The Adjudicator found in favour of the Tenant in respect of these claims.

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

The Landlord claimed to be entitled to retain £135 out of the deposit of £1,477.50 for the following reasons: (i) The Tenant was obliged to pay the Landlord's cost of professional carpet cleaning, in the amount of £100; (ii) The Tenant caused a burn mark on a table, for which the Landlord claimed compensation of £35. The Tenant said: (i) The carpets were as clean at the end of the tenancy as at the beginning; (ii) No admission was made about the alleged burn mark.

Having regard to the check in inventory and the photographs, the Landlord was not entitled to the cost of the cleaning the carpets because they had not been chemically cleaned at the commencement of the tenancy. The table on which the burn mark was made was already damaged and there was no evidence that the Landlord had suffered any resultant loss.

The Adjudicator directed the return of £1,477.50 to the Tenant.

### ***Case Study Sixteen:***

The Landlord claimed to be entitled to retain the sum of £60 out of the deposit on the ground that the Tenant left carpets stained and unclean and the Landlord incurred a cost of £60 for professional carpet cleaning. The Tenant claimed that the carpets were not clean at the commencement of the tenancy, and that she left the carpets cleaner than at the commencement of the tenancy. She said that she paid the Landlord £175 for administration charges and she should therefore not have to pay the cost of cleaning the carpets.

Having regard to the check in inventory and the photographs, the Landlord was entitled to the cost of the cleaning the carpets. The payment made by the Tenant was in respect of administration and re-advertising costs because the Tenant gave up the tenancy before the contractual termination date, and did not affect the Landlord's claim for carpet cleaning costs.

Allowing for a small overpayment in respect of rent arrears, the Adjudicator directed the return of £56.23 to the Landlord.

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### ***Case Study Seventeen:***

The Landlord claimed a payment from the deposit to cover the cost of the check out report, decorating, repairs to the washing machine and rubbish removal. Her claim for decorating costs was allowed by the Adjudicator as it was supported by an independent inventory and check out report. The Tenant did not dispute her obligation to pay for the check out report. The Adjudicator did not allow the cost of the washing machine repairs as there was no evidence that they arose out of anything other than ordinary wear and tear. The cost of rubbish removal was not allowed as ordinary cleaning should have covered minor items left by the Tenant, and the property was left cleaner than it was at the start of the tenancy.

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### ***Case Study Eighteen:***

The Landlord claimed for the cost of cleaning decorating and gardening. The Tenants disputed the claim saying they left the property in a better condition at the end of their tenancy than at the start. To the extent that the Landlord's claim was supported by an independent inventory and check out report the Adjudicator allowed it. Some of the amounts allowed were reduced to reflect the condition of the property at the start of the tenancy.

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### ***Case Study Nineteen:***

This case concerned the Landlord's claim for cleaning, especially in relation to elimination of the smell of dogs which had been kept at the Property. The Tenant contended that the Property was clean and denied that there was any smell of dogs. The Adjudicator found that the Tenancy Agreement permitted the keeping of two dogs at the Property but required the Tenant to be responsible for the reasonable costs of any damage or de-infestation and for any cleaning and fumigation required. The Adjudicator found that the Landlord was entitled to eliminate any remaining smell of dogs, because cleaning the Property if necessary after the dogs had been a condition of the Tenant being permitted to keep them at the Property.

The Tenant challenged whether there was a dog smell. The check-out report referred to the carpets being "clean but not fresh" and drew attention to the presence of a dog in the Property. The Adjudicator noted that determination whether there is a smell left by animals is notoriously difficult – particularly for those who are accustomed to the animals in question. On balance, the

Adjudicator found it likely that there was a lack of freshness in the Property associated with the former presence of the dogs. The Adjudicator also found a minimal requirement for some further cleaning. As the quotation for cleaning relied on by the Landlord extended to other matters for which the Tenant was not liable the Adjudicator made an assessment of the cost attributable to the matters for which the Tenant was liable.

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

The Landlord claimed to be entitled to retain the whole of the deposit of £525 for the following reasons:(i) The Tenant left the flat in unclean and damaged condition and the Landlord therefore incurred the cost of repairing, cleaning and redecorating; (ii) The Tenant left furniture in the flat and the Landlord incurred a cost of £80 to remove and dispose of it.

The Tenant asserted: (i) That the Landlord's claim was conceded to the extent of £189 in respect of the disposal of abandoned furniture, the professional cleaning of carpets, and a small amount of other cleaning; (ii) That otherwise the flat was left in clean and undamaged condition, apart from defects that were present at the commencement of the tenancy, or which amounted to no more than fair wear and tear. The amount of £189 conceded by the Tenant was found to be due to the Landlord. The Adjudicator found the Landlord's claims for repair, cleaning and redecoration to be justified only to the extent of one half.

The Adjudicator directed that, in addition to the amount of £189 already conceded by the Tenant, £145.25 should be paid to the Landlord, and the balance of £190.75 should be paid to the Tenant.

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

The Landlord was seeking to retain the £1,198.00 for a) £765.00 for one month's rent, b) £120.00 for cleaning, c) £30.00 for throws to cover a damaged suite, and d) £200.00 for Rentokil to spray the flat. The Landlord was happy for the balance of £83.00 to be refunded to the Tenant.

Directing that £885.00 be refunded to the Landlord and £313.00 to the Tenant, the Adjudicator decided that the Tenant was liable to pay rent to the end of the period of notice, despite having moved out earlier. Furthermore, there was sufficient evidence to show that the Landlord was justified in charging for cleaning. The claims for Rentokil and throws for the sofa failed because a) there was no proof that Rentokil was required and b) without a Check-in Inventory showing the condition of the sofa, it was the word of the Landlord against that of the Tenant about the condition at that time.

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

The Landlord was seeking to retain the £610.00 for a) £90.00 for furniture damage, and b) £520.00 for outstanding water charges.

Directing that £300.00 be refunded to the Tenant and £310.00 to the Landlord, the Adjudicator found that there was sufficient evidence to justify the £90.00 charge for the furniture damage. However, the water charges had been made by way of an assessment with nothing provided from the water company. The Adjudicator assessed the charges owed at £240.00.

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

The Landlord was seeking to retain an unspecified portion of the deposit of £1,230.00 for cleaning.

Directing that £1,230.00 be refunded to the Tenant, the Adjudicator found that the Tenant had the Property cleaned to the same standard as at commencement of the tenancy and this was borne out by the Check-out Inventory. Furthermore, the Landlord had not provided any evidence of cost.

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

The Landlord claimed in this case for loss of rent following the early departure of the Tenant and bank charges in respect of late payment of rent. The Tenant said that there had been an oral agreement with the Agents that if the Tenant paid the Agents' management fees, he would be released from any continuing liability for rent. Neither the Landlord nor the Agents had produced a copy of the Tenancy Agreement or a Dispute Rebuttal form. The Adjudicator asked for these documents to be provided by a specified date and also gave an opportunity for the Landlord to explain his case further. Nothing was received by the agreed date and so the Adjudicator proceeded to adjudicate in accordance with Rule E5.4.1 of the TDSL rules.

In the absence of the tenancy Agreement, the Landlord could not prove that the claims made arose under the tenancy Agreement. Moreover, the documents submitted supported the Tenant's claim that there had been an oral agreement that the Tenant should pay the management fees and his liability for further rent discharged.

The Adjudicator therefore found that the Landlord had not proved his case. Also there had been no evidence about the bank charges at all.

The Adjudicator directed that the protected sum be returned to the Tenant.

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

The Landlord claimed to be entitled to retain £336 out of the deposit of £1,800 for the following reasons: (i) The Tenant left the property in unclean condition and the Landlord was obliged to carry out 11 hours of cleaning work for which the Landlord claimed £176, calculated at £16 per hour; (ii) The Tenant lost or destroyed two hall rugs, for which the Landlord claimed £50 at £25 each; (iii) During the tenancy the Tenant caused damage to the Landlord's washing machine, which the Landlord was obliged to repair at a cost of £110.

The Tenant asserted: (i) That the property was left in clean condition; (ii) That there were no hall rugs in the property; (iii) That the repair of the washing-machine was the Landlord's responsibility, not the Tenant's.

The Tenant left the property in unclean condition and the Landlord was entitled to the sum of £176 claimed. The Landlord was not entitled to recover VAT on that sum, because the identity of the Landlord was not disclosed, the managing agents having entered into the tenancy agreement as agents on behalf of an undisclosed principal. In the absence of any inventory, the Adjudicator could not be satisfied that the Tenant had lost or destroyed any hall rugs. The breakdown of the washing machine was caused by the Tenant's act or neglect in putting a hair clip in the machine, and the Landlord was entitled to recover the amount of the repair invoice which was £109.98.

The Adjudicator directed that, out of the sum of £336 held by Tenancy Deposit Solutions Limited, the amount of £285.98 be returned to the Landlord, and the balance of £50.02 be returned to the Tenant.

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

The Landlords were seeking to retain the £850.00 to rectify the damage and condition of the Property after the Tenant had vacated.

Directing that £750.00 be refunded to the Landlords and £100.00 to the Tenant, the Adjudicator found that there was considerable evidence (Check-in Inventory and Check-out photos) to show that much of the damage listed by the Landlord could not be considered as fair wear and tear as argued by the Tenant.

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

The Landlords relied on an Inventory and Check Out Report prepared by an independent specialist. The Adjudicator accepted these and allowed the Landlord's claim for cleaning, which was supported by a detailed invoice. The claim for repairs and redecorating was not allowed in full as there was insufficient evidence to establish that the costs were reasonable and proportionate. There were no estimates or detailed invoices.

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

The Landlord sought to withhold all of the £500 deposit towards costs of gardening, redecorating, carpet cleaning and carpet replacement. The gardening and carpet cleaning costs were attributed to damage caused by the Tenant's dogs, which he kept at the property with the consent of the Landlord.

The Adjudicator found that the Tenant should compensate the Landlord for damage caused by the dogs. By consenting to the dogs being kept, the Landlord was accepting a greater degree of fair wear and tear. However, the obligation on the Tenant remained to return the property at the end of the tenancy in the same condition as it was at the beginning, fair wear and tear excepted. The damage caused by the dogs exceeded that standard and the Landlord was entitled to part of the gardening and carpet cleaning costs.

The Adjudicator found that the Landlord did not provide sufficient evidence that breach by the Tenant of his obligations made the redecoration and carpet replacement necessary. Accordingly, those items of the Landlord's claim failed.

For the reasons set out above, The Adjudicator has decided that the Landlord is to be paid £195.48 from the deposit and the balance, namely £304.52, is (to the extent he has not already been paid it) to be returned to the Tenant.

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

The Landlord was seeking to retain the £772.19 for a) £247.25 for a professional clean, b) £280.00 for labour charges, and c) £197.94 for damaged or missing items including £20.00 for cleaning materials.

Directing that £474.15 be refunded to the Tenant and £298.04 to the Landlord, the Adjudicator found that there was sufficient evidence to justify the cleaning charges and contributions to replacing mattress covers and light bulbs. However, as many of the items being claimed were either already noted on the Check-in report or not noted on the Check-out report, the remainder of the claims failed.

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

The Landlord was seeking to retain the £772.19 for a) £247.25 for a professional clean, b) £280.00 for labour charges, and c) £197.94 for damaged or missing items including £20.00 for cleaning materials.

Directing that £474.15 be refunded to the Tenant and £298.04 to the Landlord, the Adjudicator found that there was sufficient evidence to justify the cleaning charges and contributions to replacing mattress covers and light bulbs. However, as many of the items being claimed were either already noted on the Check-in report or not noted on the Check-out report, the remainder of the claims failed.

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

The Landlord was seeking to retain the deposit of £1,140.00 for a) £180.00 for cleaning, b) costs incurred due to the Tenant's early departure.

Directing that £678.60.00 be refunded to the Tenant and £461.40 to the Landlord, the Adjudicator found that apart from the 17 days rent due, the Landlord had failed to provide any substantiation for the other costs incurred. Furthermore, without a Check-in and Check-out Inventory, the Landlord could not prove that the cleaning costs were incurred as a result of a breach of the Tenancy Agreement by the Tenant.

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

The Landlord claimed to be entitled to retain £802 out of the deposit for the following reasons:

(i) The Tenant failed to pay Council tax in respect of the period of the tenancy from 16th October 2007 to 15th October 2008 and the Landlord incurred a cost of £532; (ii) The Tenant was liable for the cost of damage done by dampness in the amount of £270.

The Tenant asserted: (i) That she provided the local authority with all the information necessary to establish the Council Tax liability and paid the amount demanded in respect of the period from 16th October 2008 to the end of the tenancy, but no Council Tax demand had ever been received in respect of the period from 16th October 2007 to 15th October 2008; (ii) That damage caused by dampness was the Landlord's, and not the Tenant's responsibility.

Clause 2.8 of the tenancy agreement made the Tenant liable to reimburse the Landlord for Council Tax, and £532 was therefore recoverable from the Tenant.

(b) The damage by dampness was the result of a structural defect for which the Landlord was responsible by reason of Section 11 of the Landlord and Tenant Act 1985. (c) The Adjudicator directed that out of the sum of £802 held by Tenancy Deposit Solutions Limited the sum of £532 be returned to the Landlord and the balance of £270 be returned to the Tenant.

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

The Landlord claimed to be entitled to retain the whole of the deposit for the following reasons:(i)The Tenant left the interior of the property, including furniture and fittings, unclean and in need of repair;(ii) The Tenant ought to pay the cost of a check out inventory;(iii) The Tenant was liable to pay interest to the Landlord on instalments of rent paid late and the Landlord's costs, including overseas telephone calls, of recovering rent;(iv) The Tenant should compensate the Landlord for the costs caused by failing to keep appointments for the Landlord's agent to attend the property to carry out repairs.

The Tenant asserted:(i) That he left the property in good, clean condition;(ii) That a futon was broken, but the amount claimed by the Landlord to replace it was excessive;(iii) That the amount claimed in respect of interest on unpaid rent was excessive;(iv) That the Landlord did not in fact incur any cost of overseas telephone calls, because he used e-mail;(v) That there were two, not three, occasions when the Tenant failed to keep an appointment with the Landlord's agent;(vi) That the outgoing inventory was prepared by the Landlord's cousin, not a professional inventory clerk, and the Landlord did not in fact incur any cost as a result;(vii) That the Tenant was entitled to credit in the agreed amount of £200 for a wardrobe which he installed at the property.

The Adjudicator directed that the sum of £386.63 be returned to the Landlord and the balance of £1,293.37 be returned to the Tenant.

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

The Landlord claimed the sum of £474 from the total deposit of £650. This was to cover the costs of a replacement double mattress, the professional clean of the property, carpet cleaning and repair and redecoration of a bedroom door. The Tenant challenged the Landlord's assertions saying that the cleaning the property was up to the required standard. The Adjudicator examined all the evidence and determined that the sum of £295 should be refunded to the Tenant.

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

The Landlord claimed the sum of £1,015 from the total deposit of £2,042.28. This was to cover the costs of the check out fee, the professional clean of the property, the repair of a chip on a glass coffee table, the repair of a chip on a glass dressing table and a replacement lock. The Tenant challenged the Landlord's assertions saying that she had taken very good care of the flat. The Adjudicator examined all the evidence and determined that the sum of £1,937.28 should be refunded to the Tenant.

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

The Landlord claimed to be entitled to retain £1,443.50 out of the deposit of £2,580 for the following reasons: (i)The Tenant was liable to pay for the cost of checking the inventory at the end of the tenancy, for which the Landlord claimed £120; (ii)The Tenant left items of personal property behind in the property for one day, and was liable for one day's rent in the amount of £61; (iii)The Tenant left the property in unclean condition and the Landlord claimed the cost of professional cleaning in the amount of £437; (iv)The Tenant caused damage to decorations, for which the Landlord claimed the cost of repainting in the amount of £402.50; (v)The Tenant damaged the kitchen worktop, for which the Landlord claimed the cost of replacement in the amount of £230; (vi)The Tenant caused stains to carpets in the living room, the dining room, and bedroom one, for which the Landlord claimed compensation of £100, £75 and £10 respectively; (vii)The Tenant failed to replace a tap connector, an aerial connector and 5 light bulbs, for which the Landlord claimed £3.50, £2 and £2.50 respectively.

The Tenant asserted: (i) That the property was cleaned to the same standard at the end of the tenancy as at the beginning; (ii) That the alleged damage to decorations was no more than fair wear and tear for which the Tenant was not liable; (iii) That the Landlord had produced insufficient evidence of the alleged cost of necessary professional cleaning and repainting. (iv)Throughout the tenancy the Landlord failed to repair a non-functioning cooker extractor hood in the kitchen and a dimmer light switch in the dining room.

The Landlord was entitled to the cost of the inventory, £120, one day's rent, £61, the reasonable cost of cleaning, £200, the reasonable cost of repainting, £200, and £8 in respect of missing items. The Landlord was not entitled to any compensation in respect of stains to the carpets or a burn mark on a kitchen worktop because they would not affect anybody who would be likely to take the property on lease, and the Landlord had suffered no loss.

The Adjudicator directed the return of £589 to the Landlord and £1,991 to the Tenant.

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

The Landlords were seeking to retain the balance of a deposit totalling £305.00 for a) £280.00 for cleaning, and b) £25.00 for removal of rubbish. Directing that £280.00 be refunded to the Landlords and £25.00 to the Tenant, the Adjudicator found that there was sufficient evidence by way of Check-in and Check-out inventories, photos and an invoice to show that the Tenant should pay for the cleaning.

However, the Landlord was already incurring a rubbish removal charge for builders rubbish and there was no mention of any Tenant's rubbish on the invoice. The sum of £250.00 was therefore returned to the Tenant.

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

The Landlord was seeking to retain the deposit £1,500.00 for a) £1,083.33 for an outstanding month's rent, b) the balance as a contribution to his costs of reinstating the Property, which he estimates at £2,000.00 plus the loss of rent of approximately £500.00 while the Property was being reinstated.

Directing that £498.63 be refunded to the Landlord and £1,001.37 to the Tenant, the Adjudicator found that apart from two weeks rent which were owed; no evidence had been provided to substantiate the costs for reinstatement.

The Adjudicator commented that he was surprised that the Landlord had relied on an estimated figure, especially when the Tenant had moved out 1½ years earlier.

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

The Landlord claimed the sum of £2,064 from the total deposit of £1,800. This was to cover the costs of council tax, cleaning the bath and kitchen, removal of carpet stains, replacement of cupboards, removal of shelving, rewiring of cable, repainting of parts of the flat, replacement of bathroom tap, repair visits for freezer and dishwasher and replacement of lock. The Tenant challenged the Landlord's assertions saying that there were only 2 small stains on the carpets. The Adjudicator examined all the evidence and determined that the sum of £1,549 should be refunded to the Tenant.

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

The Landlords were seeking to retain the deposit of £360.00 for a) £255.58 for repairs to a broken window, b) £30.00 for cleaning, c) £163.00 for builder's repairs, and d) £126.73 for electrical repairs.

Directing that £127.79 be refunded to the Landlords and the balance to the Tenant, the Adjudicator found that there was sufficient evidence to show that the Landlords were entitled to reimbursement of the costs for replacing one broken window out of two pans of glass charged for.

However, the remainder of the claim failed because although there were invoices and receipts proving the costs, there was no Check-in or Check-out Inventory establishing that the condition of the Property at any time.

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

The Landlord was seeking to retain the deposit of £1,384.62 for various items that were allegedly due to the Tenant.

Directing that £60.00 be refunded to the Landlord and the balance to the Tenant, the Adjudicator found that there was insufficient evidence to substantiate costs of anything more than £323.00. Furthermore, apart from the £60.00 for a banister repair, the Landlord had failed to demonstrate that the condition of the Property was any different at the end to that at the beginning.

Although the Landlord had provided some photos, the 'before' shots were taken a year or so before the Tenant moved in and the 'after' photos were undated.

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

The Landlord claimed the sum of £469.18 from the total deposit of £650. This was to cover the costs of replacement of the carpets and damaged floor in the toilet and cleaning of the kitchen and windows. The Tenant challenged the Landlord's assertions saying that he had always tried to do his best to keep the flat clean and tidy. The Adjudicator examined all the evidence and determined that the sum of £234.18 should be refunded to the Tenant.

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

The Landlord claimed to be entitled to retain £605 out of the deposit for the following reasons: (i) The Tenant left the flat in unclean condition, and the Landlord incurred the cost of professional cleaning in the amount of £140; (ii) The Tenant damaged a coat hook, and the Landlord incurred the cost of replacement in the amount of £22.99; (iii) The Tenant damaged a kitchen work surface, and the Landlord expected to incur repair costs of £568.

The Tenant asserted: (i) That the flat was not clean at the commencement of the tenancy, and that it was adequately cleaned at the end of the tenancy; (ii) That the coat hook broke in ordinary use, and was a matter of fair wear and tear; (iii) The damage to the work surface occurred because it was not properly sealed to resist moisture.

There was no inventory or schedule of condition, and on the balance of probabilities the flat had not been cleaned properly at the commencement of the tenancy. The Tenant was not guilty of any breach of contract, and the Landlord was not entitled to any sum in respect of the alleged lack of cleaning. The breaking of the coat hook was fair wear and tear. The kitchen work surface was already damaged by moisture at the commencement of the tenancy, and the Tenant's actions made it worse, but the Landlord had not suffered any result loss, because the work surface was going to have to be replaced in any event.

The Adjudicator directed the return of £450 to the Landlord

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

The Landlord claimed to be entitled to retain the whole of the deposit of £450 for the following reasons: (i) The Tenant owed rent of £551.53; (ii) The Tenant left the flat in a damaged and unclean condition, and the Landlord claimed £231.36 for cleaning and repair costs. The Tenant asserted that the Landlord refused to return her deposit, or to make an appointment to check the flat, or to reply to correspondence

The arrears of rent amounted to £295.58. The photographs showed that the Landlord had been obliged to carry out cleaning and repair work, and the Landlord's claim of £231.36 was reasonable and credible. The Landlord was therefore entitled to recover £526.94 from the Tenant, which exceeded the amount of the deposit.

The Adjudicator directed the return of £450 to the Landlord.

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

The Landlord was seeking to retain £426.33 for a) £120.00 for cleaning charges, b) £285.08 for outstanding rent, and c) £21.15 for replacement light bulbs. The Landlord also confirmed that she was happy to refund a £117.50 extermination fee.

Directing that £258.65 be refunded to the Tenant and £167.68 to the Landlord, the Adjudicator found that there was only sufficient evidence to justify the charge for rent. He found that the Property had been cleaned to the same standard as at the start of the tenancy and that there was no evidence to justify the cost for bulbs.

### ***Case Study Forty –six***

The Landlord was seeking to retain £375.00 out of a deposit of £2,925.00 for a) £50.00 for cleaning, b) £120.00 for carpet cleaning, c) £200.00 for a cracked basin and d) £5.00 for broken light bulbs.

Directing that £152.50 be refunded to the Landlord and £2,772.50 to the Tenant, the Adjudicator found that there was sufficient evidence by way of Check-in and Check-out inventories (prepared by an independent Inventory company) to show that the Landlord was quite justified in making deductions for the items as claimed. However, without any evidence of cost, his claims were reduced to £152.50.

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

The Landlord was seeking to retain the deposit of £525.00 for kitchen unit doors, a boiler timer and an outbuilding lock.

Directing that £525.00 be refunded to the Tenant, the Adjudicator found that there was no evidence to prove that the condition of the Property was any different at the start of the tenancy compared with the end. There was no Check-in or Check-out Inventory and there were no photos.

Furthermore, a) the quote for the kitchen unit doors contained more items that the Landlord had give notice to the Tenant about, and b) there was no evidence of cost for the other two items.

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

The Tenant was seeking return of £1,135.00 out of the full deposit of £1,170.00.

Directing that the £1,135.00 be refunded to the Tenant, the Adjudicator noted that without a rebuttal from the Landlord, the Tenant was justified in receiving the refund.

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

The Tenant was seeking return of £1,511.25 out of the full deposit of £2,015.00.

Directing that the £1,511.25 be refunded to the Tenant, the Adjudicator noted that without a rebuttal from the Landlord, the Tenant was justified in receiving the refund.

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

The Landlord claimed a payment from the deposit to cover arrears of rent, cleaning and repairs. The Tenant disputed his liability for the rent claimed on the ground that the property was damp and infested with bed bugs. On the evidence presented the Adjudicator found that the Tenant had failed to establish that there was structural damp rather than condensation and the arrival of bed bugs months after the tenancy started was not the Landlord's responsibility. The Tenant admitted removing a door and did not dispute the other repair claims. The Landlord succeeded.

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### ***Case Study Fifty –one:***

The total sum paid to the Landlord as Deposit at the commencement of the tenancy was £825.00, of which £583.50 is currently in dispute.

The Agents submit that following the checking out procedure the Tenant agreed to a deduction of £90.00 plus VAT for the cleaning of the Property and that the Landlord is also claiming for replacement of the washing machine. On the other hand, the Tenant accepts the amount claimed for the cleaning, but denies any further liability towards the Landlord and submits that she is entitled to be returned the remaining amount in dispute.

The Adjudicator decides to award the total sum of £103.50 to the Landlord; the total sum of £480.00 to the Tenant

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

The Landlord was seeking to retain the £620.00 deposit for a) £210.00 for professional cleaning charges, b) £286.00 for redecoration, c) £35.00 for replacement light bulbs, and d) £95.00 for the Check-out Inventory fee.

Directing that £620.00 be refunded to the Tenant the Adjudicator noted that the failure to provide a Check-in Inventory coupled with a) the Tenant's complaints about the condition of the Property at the start of the tenancy and b) lack of any cost evidence caused the Landlord's claims to fail.

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

The Landlord claimed for various items of disrepair at the end of the tenancy. The tenancy had been a joint tenancy and had followed upon an earlier joint tenancy which had involved 2 out of 3 of the same people including the Tenant. The check-in inventory had been taken before the earlier tenancy but not before the later one. Although there was a check-out report, this had not been provided to the Adjudicator. The Adjudicator observed that it was for the Landlord to provide that report because it was for the Landlord to make out his claim. The Adjudicator found that the Landlord's various heads of claim had not been proved except for two items admitted by the Tenant.

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

The Landlord claimed a payment from the cost of the deposit for the cost of decorating. The Adjudicator rejected the Tenant's explanation that the wallpaper peel off due to damp and awarded the Landlord a contribution to the cost of redecorating from the deposit, after taking into account betterment.

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

The total amount of £695.00 paid to the Agents as Deposit at the commencement of the tenancy, is currently in dispute.

The Tenant submits that he is entitled to be reimbursed the total amount in dispute as he is of the opinion that any of the alleged damages amounted to fair wear and tear and denies any liability towards the Landlady and/or Agents. On the other hand, the Landlady submits that they are entitled to make deductions from the Deposit to compensate towards losses arising as a result of the Tenant's breaches of the Tenancy Agreement, relating mainly to dilapidations and cleaning of the Property.

The Adjudicator has decided to return the total sum of £695.00 to the Tenant.

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

The Landlord was seeking to retain the deposit of £650.00 as a contribution to her costs of £1,697.57 which she incurred reinstating the Property.

Directing that the £650.00 be refunded to the Landlord, the Adjudicator noted that without nothing more than a statement from the Tenant compared with the Landlord's evidence (which included photos taken before and after the tenancy, a Check-out report and receipts/invoices) the Landlord had proved her case. Even making allowances for items which the Adjudicator did not feel were due to the Tenant, he decided that the deposit was due to the Landlord.