



UNDERSTANDING TENANCY DISPUTE RESOLUTION - FROM MID-TENANCY TO END-OF-TENANCY





Contents

WHAT IS DISPUTE RESOLUTION?	3
TENANCY REDRESS SERVICE	4
HOW DOES IT WORK?	5
SELF RESOLUTION/EARLY RESOLUTION	6
END OF TENANCY DISPUTE RESOLUTION	7
HOW LONG DOES THE DISPUTE RESOLUTION PROCESS TAKE?	8
PREPARING FOR A DISPUTE	9
HOW AN ADJUDICATOR MAKES THEIR DECISION	10
WHAT IF YOU'RE UNHAPPY WITH THE ADJUDICATOR'S DECISION?	10
EVIDENCE TO SUPPORT A CLAIM	11
SIGNED TENANCY AGREEMENT	11
SIGNED CHECK-IN AND CHECKOUT INVENTORY REPORTS	12
A STATEMENT OF THE RENT ACCOUNT	14
SIGNED REPORTS OF PERIODIC INSPECTIONS OF THE PROPERTY	14
INVOICES/RECEIPTS/ESTIMATES/QUOTES	14
DATE STAMPED PHOTOGRAPHS OR VIDEO RECORDINGS	15
COPIES OF ANY CORRESPONDENCE BETWEEN THE LANDLORD AND TENANT	16
WHAT KIND OF EVIDENCE IS REQUIRED TO SUPPORT THE COMMON TYPES OF CLAIMS MADE?	17

What is dispute resolution?

Dispute resolution is a free service for resolving deposit disputes between landlords and tenants at the end of the tenancy. All three deposit protection providers provide an end of tenancy dispute resolution service for their customers, as an alternative to using the courts.

At the Tenancy Deposit Scheme, we offer 3 separate solutions when it comes to dispute resolution.

- 1 **TENANCY REDRESS SERVICE, A MID TENANCY SERVICE THAT AIMS TO FACILITATE THE RESOLUTION OF COMPLAINTS BETWEEN TENANTS AND LANDLORDS**
- 2 **SELF-RESOLUTION OR EARLY RESOLUTION**
- 3 **END OF TENANCY DISPUTE RESOLUTION**





Tenancy Redress Service

Separate from our end of tenancy dispute resolution, The Tenancy Redress Service, operated by The Dispute Service Ltd, is dedicated to resolving mid-tenancy disputes between landlords and tenants, with the goal of helping to sustain and maintain successful tenancies.

The service is free and can assist in the following types of issues/disputes:

- Property standards
- Repairs
- Entry rights
- Rent arrears
- Threatened evictions
- Breach of tenancy terms
- Noise/Anti-social behaviour (except serious anti-social activity)

What we cannot deal with:

- Evictions
- Legal advice
- End of tenancy disputes
- Deposit issues

This service is not suitable for dealing with issues after the tenancy has ended, including disputes about the return of a deposit. The Tenancy Redress Service is also unable to assist with or provide legal advice on the eviction process. Landlords who sign up to this voluntary Tenancy Redress Service understand that they are doing so on a voluntary basis. Participating landlords should ensure that they provide each of their tenants with a copy of this [Guide](#).

How does it work?

- 1 LANDLORDS AND TENANTS CAN RAISE A COMPLAINT WITH THE TENANCY REDRESS SERVICE BY COMPLETING AN [ON-LINE FORM](#).
- 2 LANDLORDS CAN JOIN THE TENANCY REDRESS SERVICE FOR FREE BY SIGNING UP DIRECTLY WITH [TRS](#) OR THE NRLA.
- 3 A TRS COORDINATOR WILL REACH OUT TO THE PARTIES TO OBTAIN CONSENT TO PARTICIPATE IN MEDIATION, AND AN APPOINTMENT WILL BE ARRANGED.
- 4 IF A SOLUTION IS REACHED, A WRITTEN AGREEMENT WILL BE SENT TO BOTH PARTIES WITHIN TWO WORKING DAYS. IF NO AGREEMENT IS REACHED AND THE LANDLORD IS A MEMBER OF THE TRS, COMPLAINTS CAN BE TAKEN TO ADJUDICATION.





Self Resolution/Early Resolution

Many disputes could be resolved before reaching adjudication by landlords and tenants simply talking to each other and discussing their differences, to see if they can reach an agreement.

It doesn't matter what stage the dispute resolution process has reached, landlords and tenants can still negotiate an agreement before the adjudicator has made their decision so it can be worth keeping the communication going.

Self-resolution facilitates many disputes to be resolved without the need for adjudication. The platform allows landlords, agents and tenants to come to an agreement without the need to move to formal adjudication.

At the self-resolution stage, you can make proposals on deductions, respond directly to the other party, track your case's progress and settle your own disputes promptly.

Before reaching the adjudication stage, you'll also have a valuable opportunity for early resolution. Our team of early resolution executives will get in touch via phone and email, actively promoting discussions between both parties to achieve a mutually satisfactory agreement, eliminating the need for formal adjudication.

If both early and self-resolution are unsuccessful, the dispute will move to end of tenancy dispute resolution, where an adjudicator will take over.



End of tenancy dispute resolution





At this stage, landlords and agents can submit their evidence online in support of their claim and tenants can provide their own evidence supporting their position in response. An independent, impartial adjudicator, will then review the evidence and decide how the deposit will be repaid.

WHAT ARE ADJUDICATORS?

Adjudicators are independent, impartial experts, with the skills necessary to make fair and reasoned decisions based on case evidence. They're either employed directly by the deposit protection provider or an independent individual working under contract. The deposit protection provider is contractually bound to ensure the adjudicators they employ, directly or under contract, are appropriately qualified for the role.

How long does the dispute resolution process take?

Each deposit protection provider has their own timescales for the process, and you should check those of your provider to make sure you meet the deadlines required for evidence submission and response. With TDS, our average time in days to resolve disputes is:

	TOTAL DISPUTES RESOLVED	AVERAGE KPI
 TENANCY DEPOSIT SCHEME ENGLAND & WALES INSURED	11,430	20.5 DAYS
 TENANCY DEPOSIT SCHEME ENGLAND & WALES CUSTODIAL	2,499	20 DAYS
 SAFE DEPOSITS SCOTLAND CUSTODIAL	1,191	13 BUSINESS DAYS
 TENANCY DEPOSIT SCHEME NORTHERN IRELAND INSURED & CUSTODIAL	428	9 BUSINESS DAYS
TOTAL	15,548	

Source: TDS Year in Review, May 2023

Preparing for a dispute

Being well-prepared for a dispute can significantly help in obtaining a positive result. We'll walk you through essential steps to proactively prepare for your deposit dispute.

Claims made for deductions from a deposit are civil claims, and therefore the adjudicator must be persuaded "on a balance of probabilities" that the tenant breached their obligations, and that the landlord has suffered, or is likely to suffer, a loss as a result. In simple terms, landlords must provide evidence that will support the claims they've submitted to have a chance of success.

The deposit remains the property of the tenant until the adjudicator is shown sufficient evidence to prove the landlord has a justifiable claim. Adjudicators are impartial and the onus is on the landlord to convince them that the claim is valid.

IS MY CLAIM REASONABLE?

Many landlords claim for the full amount of the deposit, instead of asking for a deduction that is fair to both themselves and the tenant. Adjudicators will only award what they think is a reasonable amount to landlords.

THE BURDEN OF PROOF

Many landlords don't realise that the onus is on them to prove they have a legitimate claim to a share of the deposit, whilst the tenant has no obligation to prove their position. As mentioned above, the deposit remains the tenant's money until the landlord has successfully proven their claim.

During end of tenancy dispute resolution, neither the landlord nor the tenant will ever be required to meet with the adjudicator. Nor will the adjudicator visit the property involved in the deposit dispute.

In some cases, the adjudicator may decide that the case would be better dealt with through a formal court process. For example, a case involving police or alleged criminal activity, where the dispute involves allegations of fraud relating to the evidence, or highly complex disputes. The adjudicator has limited jurisdiction and does not have the same powers as a County Court Judge. It is sometimes more appropriate for the matter to be referred to court for a full hearing where spoken evidence can be considered.



How an adjudicator makes their decision

Adjudicators make their decisions based on evidence received from both parties, judging how much should be awarded to both parties by calculating the cost of any breach of the tenancy agreement.

Claims made against a deposit are civil claims, and the adjudicator must be persuaded "on a balance of probabilities" that the tenant has breached their obligations, and that the Landlord has suffered, or is likely to suffer, a loss as a result.

Adjudicators are completely unbiased and will only consider evidence submitted during the dispute resolution process. An adjudicator will take into account any admissions of liability by the tenant, although evidence should still be provided to show how the tenant has broken the tenancy agreement, and the loss suffered as a result.

After analysing the evidence they've received from both parties, the adjudicator will provide the decision to the scheme, and the scheme will send the decision to the landlord and tenant.

What if you're unhappy with the adjudicator's decision?

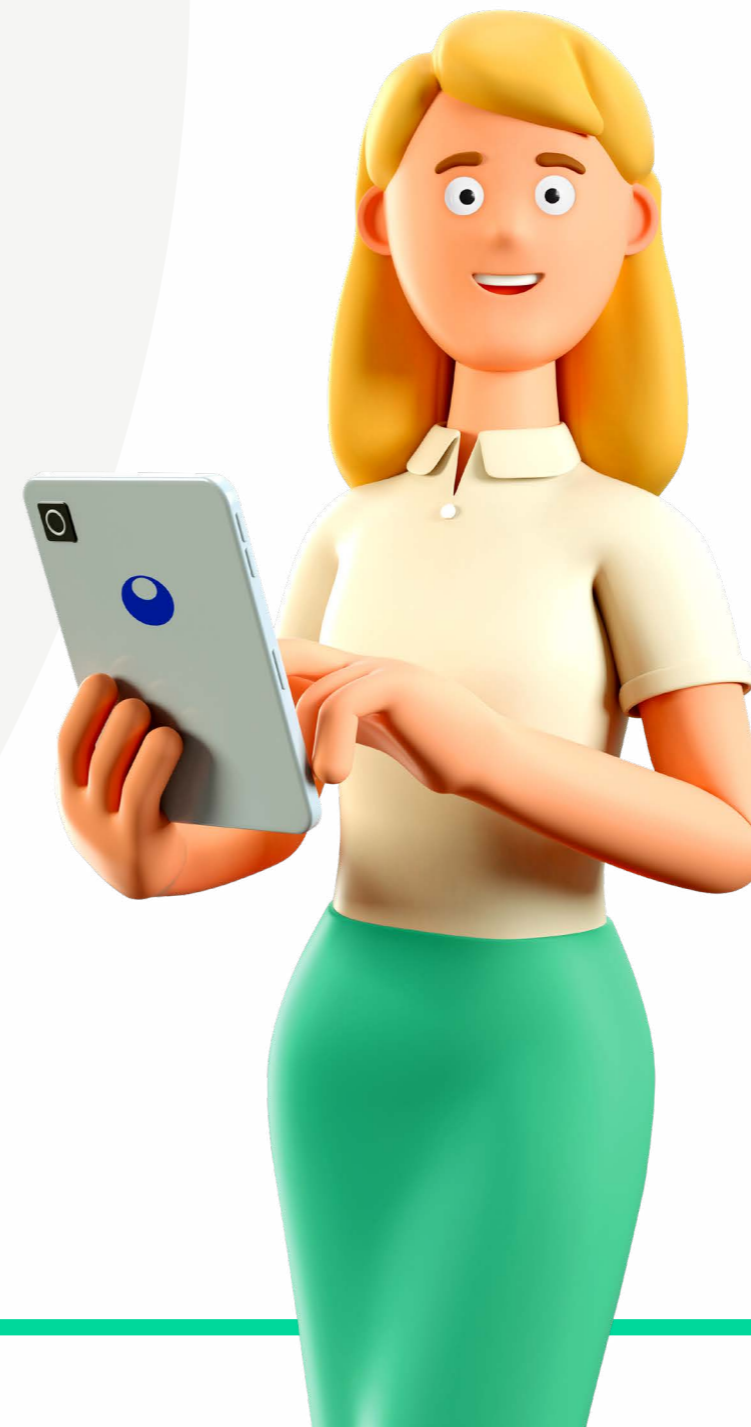
At the start of the process, both landlord and tenant have to consent to use their provider's dispute resolution service, and part of this consent requires acknowledgement that the decision the adjudicator arrives at is final and legally binding, unless there is an error of fact or law by the adjudicator. The only way it can be challenged is through a Court of Law. Parties are recommended to take their own legal advice in respect of potential court proceedings.

Evidence to support a claim

Different types of evidence can be submitted depending on what the claim is for. These are some of the most important examples.

Signed tenancy agreement

As a bare minimum when making a claim, a landlord should provide a signed copy of the tenancy agreement with their evidence for the adjudication to proceed. This is essential for virtually all disputes and without it, a landlord's claim is almost certain to be rejected as the adjudicator won't be able to establish the contractual obligations that apply.





Signed check-in and check-out inventory reports

The adjudicator will use the inventories to compare the property condition at the beginning and end of the tenancy and without it, they're highly likely to reject the landlord's claim. They'll need to judge how reliable the inventory is.

Those considered to be the best evidence will usually:

- 1 HAVE BEEN PREPARED BY A THIRD PARTY SUCH AS A PROFESSIONAL INVENTORY CLERK
- 2 CONTAIN DATED PHOTOS
- 3 HAVE BEEN SIGNED BY THE TENANT
- 4 THOSE COMPILED BY AGENTS OR LANDLORDS (RATHER THAN AN INDEPENDENT THIRD PARTY) WILL REQUIRE SUPPORTING EVIDENCE THAT THE TENANT HAS SEEN THE INVENTORY AND HAD AN OPPORTUNITY TO AGREE THE CONTENTS OR COMMENT ON IT.

TIP:

Completing your own inventory? Make sure that there are clear dated photographs included with the inventory that confirm the validity of the comments. Inventories can be the deciding factor in a dispute (and can even prevent them occurring) so it's important they're clear and detailed.

The check-in report will need to be as comprehensive as possible. If you're explaining the condition of an item, be descriptive! Words like 'fair' and 'ok' can be interpreted in many different ways, and might not help your case. It's important to say if an item is brand new.

Check-out evidence should be completed as soon as possible after the tenant returns the keys. The tenant doesn't have to attend the check-in or check-out inspection, but they should be encouraged as it will be easier for you both to agree the results.

Tenants should be invited to check-out and given the opportunity to discuss the findings and sign the report. If either party doesn't attend the check-in or check-out, it may undermine confidence in the report's veracity, and records of communication about check-in or check-out, including invitations to attend may be useful evidence in the event of a dispute.





A statement of the rent account

Where the dispute concerns rent arrears, rent account statements are important as these show the outstanding arrears. These should clearly show the property and person to whom the account relates, and provide a breakdown of how rent arrears are calculated.

Signed reports of periodic inspections of the property

It's sensible for the landlord to carry out periodic inspections of the property as an opportunity to ensure the property is being maintained, and to identify any potential issues that may result in a dispute. These reports don't need to be as detailed as the check-in and check-out reports but can add useful evidence in the event of a dispute.

Tip: Make sure any required follow-up is communicated in writing to the tenant.

Invoices/receipts/estimates/quotes

These are necessary to illustrate costs for many types of claim, including, repairs or restoration, redecoration, replacement of damaged goods, gardening, cleaning and waste disposal that has been required.

Receipts should be itemised with a breakdown of the costs being charged for each type of work undertaken.

Estimates and quotes aren't as strong evidence as invoices or receipts because they're not showing a cost that's actually been incurred. However, the adjudicator will still take them into account as they show the extent of charges necessary to rectify any damage or deterioration, as the landlord doesn't need to have completed remedial work in order to make a claim.

Generally, landlords can't claim for their time and inconvenience; although a reasonable claim may be considered if proportionate and supported by comparable examples.

Date stamped photographs or video recordings

'Before and after' photographs allow adjudicators to see the reason for the claim. They should be submitted with an explanation of what the photograph is showing e.g. colours, item description, marks on surfaces etc. Photos must be good quality, and clearly show the alleged damage or defect.

TIP:

Electronic versions of the photos are much easier for our adjudicators to judge. If submitting photos or videos, it's helpful for the adjudicator if you highlight the relevant part of the image or recording where the evidence can be found, with images clearly dated.





Copies of any correspondence between the landlord and tenant

These can be very helpful to the adjudicator, for example to establish dates when repairs were reported, when they were carried out, exactly what was agreed could or couldn't be done (for example where the tenant has asked to redecorate), or any admissions of liability made in the correspondence. "Correspondence" can include letters, emails, text messages, social media messaging or other methods of communication which record correspondence between both parties.

Witness statements

Sometimes there may be witnesses who may have useful information for the adjudicator to consider regarding a claim, such as independent contractors, surveyors' reports or third-party agencies. Landlords and tenants can submit witness statements, or letters in support from individuals for the adjudicator's consideration. The adjudicator won't contact witnesses to obtain further evidence, cross-examine them, or take evidence under oath.

What kind of evidence is required to support the common types of claims made?

NON-PAYMENT OF RENT

- ✓ Tenancy agreement
- ✓ Statement of the rent account
- ✓ Bank statements are often produced to support claims for rent arrears, but alone these aren't as compelling to an adjudicator as a full statement of the rent account
- ✓ It's also useful to provide evidence that the tenant has been told about the arrears (ideally with a statement of account provided) and given the chance to comment on them.

CLEANING

- ✓ Tenancy agreement
- ✓ Signed check-in and check-out inventory reports
- ✓ Signed reports of periodic inspections of the property
- ✓ Invoices/receipts/estimates/ quotes
- ✓ Date stamped photographs or video recordings
- ✓ Copies of any correspondence between the landlord and tenant.

TIP:

A landlord can carry out the cleaning themselves and claim their own costs. They can support their claim by producing quotes for the cleaning from a contractor, to show that the costs are not greater than if they hired professional help.

Reminder:

A tenant is only obliged to return the property cleaned to the same standard as at the start of the tenancy. For this reason, 'Standard Charges' in relation to cleaning will be considered on the basis of how proportionate they are to the cleaning required.



DAMAGE TO PROPERTY OR ITEMS (REDECORATION/ REPAIR/ REPLACEMENT/ RESTORATION)

- ✓ Tenancy agreement
- ✓ Signed check-in and check-out inventory reports
- ✓ Signed reports of periodic inspections of the property
- ✓ Invoices/receipts/estimates/ quotes
- ✓ Date stamped photographs or video recordings
- ✓ Copies of any correspondence between the landlord and tenant
- ✓ Witness statements
- ✓ See the above tip regarding landlords claiming their own costs for work they have carried out themselves.

GARDENING

- ✓ Tenancy agreement
- ✓ Signed check-in and check-out inventory reports
- ✓ Signed reports of periodic inspections of the property
- ✓ Invoices/receipts/estimates/ quotes
- ✓ Date stamped photographs or video recordings
- ✓ Copies of any correspondence between the landlord and tenant
- ✓ Witness statements.

OUTSTANDING UTILITY BILLS

- ✓ Tenancy agreement
- ✓ Copy of the utility bill.

Reminder:

If utility bills are in the tenant's name then it's unlikely an award will be made to the landlord as the debt is owed by the tenant to the service provider and should not affect the landlord or new tenant's ability to obtain services.

If the tenant is paying for utilities as part of their rent payment, this would normally be considered as **rent arrears**.

CONTRACTORS' FEES FOR MAINTENANCE OR REPAIR OF THE PROPERTY

- ✓ Tenancy agreement
- ✓ Copy of the contractor's invoice.
- ✓ Any correspondence that shows why the landlord considers the tenant liable for the contractor's invoice.

TIP:

Remember that the landlord is always liable for the structure, maintenance, and repair of the property under statute. The adjudicator will therefore need to understand why the contractor's fee did not relate to this statutory responsibility in order to make an award for the tenant to pay it.

AGENCY FEES

While it is accepted that agents can insert standard fees into their Terms of Business or tenancy agreements, they can be challenged by a tenant. If the adjudicator considers them to be unreasonable, they have the potential to be unenforceable.

WEAR AND TEAR

Landlords can only claim for excessive wear and tear – which would be considered damage and fall under that claim type.

TIP:

Want to find out how successful your claim is likely to be? Try our [dispute chatbot](#)! It's completely confidential and will assess your claim, its likely outcome, and give you advice on what evidence you'll need to submit.

