

Adjudication Digest April 2015

“Here, kitty kitty...”

The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind the decision. The aim of these Digest reports is to help tenants, landlords and agents better understand how we make our adjudication decisions. The names of the landlords and tenants involved have been removed and this is only a brief summary of the dispute.

Amount of deposit in dispute:	£ 300.00
Dispute initiated by:	Landlord
Award made:	
Tenant	£ 0.00
Landlord	£ 300.00
Agent	£ 0.00

This month's case looks at a dispute over damage caused by a cat living in the property. The claim in this dispute was for damage to two living room sofas and internal wooden door frames caused by a cat living in the property. While the tenant agreed that he should compensate the landlord for damage caused by his pet, he disputed the amount which the landlord felt was necessary to 'make good'.

The landlord provided a signed tenancy agreement with a deposit clause which specified that the deposit 'may be used by the landlord to pay for any rent arrears, breakages, losses or damage for which the tenant is liable in terms of this lease'. The tenancy agreement also specified that 'the tenant shall not keep any animals, birds or other living creatures at the property without the landlord's written consent'.

The landlord also provided a signed copy of the check-in report which detailed that the two living room sofas were in 'good condition' at the start of the tenancy. The check-in report made no reference to any doorframes in the property. The landlord provided a check-out report which reported 'damage to both sofas: scratch and puncture marks on both sofas caused by animal'. The check-out report included dated photographs which showed considerable tears in the fabric of both sofas. The check-out report made mention to 'animal scratches across all internal doorframes'.

While the tenant admitted in his evidence that he had kept a cat in the property, and in doing so had broken the terms of his tenancy agreement, he argued that the amount which the landlord was claiming for was excessive in relation to the claim. Prior to adjudication, the tenant had agreed to pay £250 to the landlord from his deposit, and he argued that this amount was 'more than enough to cover the costs'.

The landlord provided a quote for re-upholstering the larger sofa at a cost of £600. The quote was on the contactor's branded paper and included the tenancy address and a description of the work required. While the landlord stated that she wished to claim a further £200 for the smaller sofa, no quote or invoice, or an explanation of how the claim amount was calculated, was submitted.

In this case the adjudicator took the view that a comparison of the check-in and check-out reports, together with the 'end of tenancy' photographs, justified an award for the two sofas. While some of the landlord's claim was not supported by evidence – for example, there was no mention of the doorframes in the check-in report – based on the evidence provided, the adjudicator felt it was appropriate to award the landlord the full amount in dispute. While the quote provided by the landlord was for £600, the adjudicator was only able to award up to the amount held by SafeDeposits.

So what are the key points here?

While a landlord should include in the terms of the tenancy agreement if pets are allowed to be kept in the property or not, a breach of this clause is not reason enough for the adjudicator to make an award to the landlord. The adjudicator is only able to make an award to compensate any financial loss to the landlord, so it is essential that the landlord demonstrates how this breach in contract resulted in a loss. In this case, the landlord has provided comparative evidence from the beginning and end of the tenancy to show the adjudicator that a loss has occurred as a direct result of the tenant keeping a pet in the property. The adjudicator cannot assume that a pet has had a detrimental impact on a property without supporting evidence.

Although the adjudicator can only award a maximum of the deposit protected, it is useful to know if the total amount you are claiming exceeds the deposit. You are not obliged to tell us this, but it may be in your interests to do so. If part of your claim is unsuccessful, the adjudicator can then go on to consider the balance of your claim. The landlord in this dispute may have been unsuccessful in an award for the damage caused to the doorframes, but, as the damaged sofas were also part of the claim, the adjudicator was able to work through the claim until the disputed amount was 'used up'.

If a landlord does decide to allow a tenant to keep a pet in the property, it may be helpful to include a specially negotiated clause, signed separately from the standard clauses by the tenant. For example, the clause may specify that the tenant has to have the property professionally cleaned at the end of the tenancy