

Adjudication Digest No 5/2015

Assessing a loss

- **The Adjudication Digest takes a recent decision by a SafeDeposits adjudicator and sets out the reasons behind it. We hope that you will find these digests informative in understanding how we reach our adjudication decisions.**
- **This document is for guidance only – it is not intended to guarantee when an award will be made.**
- **Each dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us.**



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 parties involved have been removed and this is only a brief summary of the dispute.

Assessing a loss

In last month's issue of the digest, we looked at the idea of the most appropriate remedy for a landlord's loss. This month, using the same case study, we examine in more detail how the adjudicator tries to quantify the level of loss suffered by a landlord.

Amount of deposit in dispute	£185.00
Award to tenant	£100.00
Award to agent (on behalf of landlord)	£85.00

The facts of last month's digest are repeated below.

The landlord submitted a claim for a replacement fridge. The claim included a delivery/removal charge of £35.00 which was included on an itemised invoice.

A fridge was noted on the inventory taken at the start of the tenancy. It was stated to be in 'C' condition which was defined as 'average'. In the update conducted at check out, it was noted that the fridge had been left disconnected and that, when the check out clerk tried to switch it on, it would not work.

The landlord obtained a quote for a repair, which exceeded the cost of a new item. His argument was that it was reasonable to claim to replace the fridge on the basis that a repair was not economically viable.

The tenant said that the fridge had been working when they left and that they had defrosted and cleaned it as required.

The adjudicator agreed that the fridge had not been returned to the landlord in working order at the end of the tenancy and that it was appropriate in the circumstances for it to be replaced rather than repaired.

The adjudicator awarded the landlord £85.00 to include delivery/removal costs as a contribution towards the replacement of the fridge based on an estimate of the remaining useful life of the item at the end of the tenancy.

So what are the key points here?

There are a number of related factors the adjudicator has to consider in assessing the level of loss suffered by the landlord.

The key point is that the loss should represent the cost of putting the landlord back in the position they should have been in if the damage had not occurred. In the example above, the landlord was entitled to have returned a fridge in average condition which has been used in a reasonable fashion throughout the tenancy.

When looking at the 'value' of such an item, it is useful for the adjudicator to know as much as possible about the age and quality of the item. With that information the adjudicator will assess how long the item should have lasted and the lost value in having to replace it earlier than had been anticipated. In other words, the loss represents the value in the remaining life of the item.

Where sufficient information is available, the adjudicator will make use of general industry guidance, such as that produced by ARLA, to form a view on how long an item should have lasted before the landlord would usually expect to replace it. This is generally guidance only, and there is a general recognition that the longevity of white goods has declined in line with the reduction in their pricing over the last decade. An example of such guidance is shown below:

Average lifespan of average quality white goods

Washing Machines	3 – 5 years
Cookers/Ovens/Hobs	4 – 6 years
Fridges	5 – 8 years

However, it is often the case that there is insufficient information for such guidance to be used to any useful effect. As always, it is important to give the adjudicator as much information as you can. Remember to keep hold of invoices to show when the item was purchased and to include information on inventories about the make and model of fridges, washing machines etc.



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