

SafeDeposits
Scotland

Adjudication digest





Contents

We publish an adjudication case study every month which takes a recent decision by a SafeDeposits Scotland adjudicator and sets out the reasons behind it. We hope that landlords, letting agents and tenants find these case studies helpful in understanding how we reach our adjudication decisions.

Please note that the following case studies are for guidance only: they are not intended to guarantee when an award will be made. Every dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us.








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For further guidance, we have created a series of evidence tables which relate to different types of claim (e.g. cleaning claims, damage claims, etc.), explaining the type of evidence required to substantiate the claim and why it is required.

As with the adjudication case studies, please note that the following tables are for guidance only: they are not intended to guarantee when an award will be made. Please remember that providing the documents is half the battle: they need to be of good quality and relevant to be of maximum use. Every dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us.

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We have created an “adjudication jargon buster” to help make the adjudication process as simple to follow as possible. If the deposit repayment is referred to our alternative dispute resolution (ADR) process at the end of the tenancy, the following terms are likely to be mentioned by our staff, in our system emails and on our website.

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We have also created a key to a good submission to visually illustrate the different elements to substantiating a claim.

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Redecoration: I didn't agree to purple paint!

This dispute centred on an agreement between the landlord and tenant for the tenant to repaint parts of the property.

Amount of deposit in dispute	Award to tenant	Award to agent (on behalf of landlord)
£250.00	£250.00	£0.00

The tenant had emailed the agent to ask permission to repaint two rooms which were looking a little tired. The landlord confirmed that he agreed to this as long as the work was carried out to a professional standard.

The tenant repainted the sitting room and bedroom in neutral colours other than two feature walls, one being purple and the other deep blue. At the end of the tenancy, the landlord wished to claim from the deposit the cost of repainting the feature walls in a neutral shade to match the remaining walls. The landlord said that the feature walls would make it difficult for the property to be re-let and that the tenant had been aware that she should stick to neutral colours.

The tenant objected and argued that she had done as the landlord wished by ensuring that the painting was undertaken to a professional standard and that there was no agreement that specific colours should be used.

The tenancy had lasted for almost two years and the inventory indicated that the décor had been in reasonable condition at the start of the tenancy. Although there was no written check-out report, both parties provided a number of photographs of both rooms. The photographs showed that the painting had been completed carefully with no patchiness or evidence of poor workmanship.

The lease required the tenant to return the property in the same condition, fair wear and tear excepted.

The adjudicator agreed that the condition of the décor had changed during the tenancy, but, as far as the two rooms were concerned, it appeared to have been presented in an improved condition at the end of the tenancy. There was no written evidence of the agreement between the parties: the only common ground between them being that there had been permission to decorate as long as it was done to a high standard.

With no evidence to demonstrate that the landlord had specified neutral colours must be used, either as part of their agreement or included in the tenancy agreement, the adjudicator concluded that no award was justified.

[So what are the key points here?](#)

If a landlord agrees to allow a tenant to alter something in the property, they should consider what conditions they wish to place on the agreement. It would be reasonable, for example, to require the tenant to use certain paint colours or types, to require the tenant to use a contractor or to insist that the tenant return the décor to its original colour at the end of the tenancy.

Any agreement reached should be put in writing so there is no room for disagreement at the end of the tenancy.

The situation in this case would have been different if the tenant had painted without permission. Although the tenant may have improved the condition of the décor, the landlord would be entitled to expect the property to be returned in the same or similar colour scheme. If the tenant had redecorated without permission the landlord would have been entitled to a contribution towards the redecoration of the two walls.

If the painting had been of poor quality, the landlord would also have been entitled to some compensation as their agreement to redecorate was dependent upon the work being done to a professional standard.



Damage: Damp strikes back

This case study looks at a dispute over who is responsible for damp in the property.

Amount of deposit in dispute	Award to tenant	Award to agent (on behalf of landlord)
£300.00	£200.00	£100.00

The check-in report from the start of the tenancy described the décor in the reception room and bedroom as “neutral, reasonable condition with slight patchy effect”. At check-out, there was mould growth beneath the windows and extensively in the corners of both rooms at a low level and at the top of the walls.

The agent claimed that the tenant caused the problem by failing to ventilate the property. When the tenant had brought the problem to the agent's attention, he was asked to wash the walls with a solution. During a later inspection, the tenant appeared to have treated the areas but had not subsequently alerted the agent that the problem had resurfaced.

The tenant said that the mould started to appear as soon as the weather became colder. He was concerned about the cost of additional heating, and, as it was a ground floor flat, did not want to leave the windows open when he was out. The tenant also provided an email, apparently from former tenants, which stated they had encountered the same problem but the landlord had painted over the affected areas. The tenant also provided a link to an advice website about the pros and cons of storage heaters. The inventory confirmed that the heating to the property was provided through electric storage heaters.

The adjudicator took the view that both parties bore some responsibility for the problem. Although the evidence was relatively limited, the patchy effect of the walls supported the tenant's assertion that previous problems had been painted over. In addition, the type of heating in the property can cause problems in terms of adequacy in cold weather. However, the tenant, having treated the problem once, did not repeat the exercise or alert the agent to the continuing problem. This meant that the agent did not have the opportunity to investigate further and attempt to mitigate their loss. The damage at the end of the tenancy was therefore more extensive than it would otherwise have been and cost more to put right.

The agent did not submit an invoice or estimate in support of the claim but had referred to applying a stain block and repainting both rooms. The adjudicator considered it reasonable for the tenant to contribute £100 towards the cost.

[So what are the key points here?](#)

It is helpful in disputes of this nature for the adjudicator to see a report from a contractor setting out the likely cause of mould growth in a property. Either party could submit such a report.

Problems with mould often arise in a bathroom. Remember to include in the inventory details of the ventilation available, notably windows and extractor fans. The adjudicator cannot assume they exist if they are not detailed.

Tenants can reasonably be expected to use available heating and ventilation to prevent problems with condensation and mould. However, a landlord should also ensure that heating sources are adequate. It is generally not reasonable to expect a tenant to leave windows in a ground floor property open for ventilation purposes if the property is regularly unoccupied during the day.

As with other issues arising during a tenancy, the landlord is entitled to expect that the tenant will notify them of a problem with mould growth to allow the cause of the problem to be investigated.

It is helpful to bring the tenant's attention to the possibility of condensation arising, particularly if the property does not contain a tumble dryer, and to provide written guidance on the steps they should take to avoid or deal with it.



The landlord in this dispute wanted to claim for damage caused by a cat living in the property.

Amount of deposit in dispute	Award to tenant	Award to landlord
£300.00	£0.00	£300.00

The landlord provided a signed tenancy agreement 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 pets in the property without the landlord’s written consent”.

The landlord submitted a check-in report which detailed that two living room sofas were in “good condition” at the start of the tenancy. The check-out report stated there was “damage to both sofas: scratch and puncture marks on both sofas caused by animal”. The landlord also submitted dated photographs which showed considerable tears in the fabric of both sofas. The check-out report also made mention to “animal scratches across all internal doorframes”.

While the tenant admitted 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 claimed for was excessive. Prior to adjudication, the tenant had agreed to pay £250 to the landlord from his deposit and he argued that this 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 Scotland.

[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 provided comparative evidence from the beginning and end of the tenancy to show the adjudicator that a loss had 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 by SafeDeposits Scotland, it is useful to know if the total amount the landlord is claiming exceeds the deposit. The landlord is not obliged to tell us this, but it may be in their interests to do so. If part of the claim is unsuccessful, the adjudicator can then go on to consider any other costs being claimed for. 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, which is 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.



Gardening: Little green fingers

This case looks at a dispute over deterioration in the condition of a garden.

Amount of deposit in dispute	Award to tenant	Award to agent (on behalf of landlord)
£150.00	£0.00	£150.00

The agent wished to claim £340 from the £650 deposit for the cost of gardening carried out at the end of the tenancy. The tenants agreed to a deduction of £190 from their deposit towards gardening, but argued that the additional £150 claimed for was excessive. The £190 undisputed amount was repaid to the agent prior to adjudication.

The agent provided a signed copy of the tenancy agreement which specified that “the tenants have a responsibility to keep the garden in good order, weeded, to cut grass and to maintain the general character of the garden”.

The signed inventory provided by the agent detailed the condition of the garden as “well maintained” at the start of the tenancy, while the check-out report from the end of the tenancy noted the garden as being “very overgrown, requires weeding and the removal of rubbish”. The agent also submitted photographs of the garden at both the start and end of the tenancy to show the deterioration in condition. The photograph of the garden at the start of the tenancy was dated some weeks prior to the tenancy start date – while some allowance must be made for this period, the garden appeared to be in good condition at the start of the tenancy. Several dated photographs from the end of the tenancy showed obvious damage to grass, overgrown grass and weeds and rubbish and debris scattered throughout.

The agent provided a contractor’s quote to substantiate the amount of their claim, which was on the contractor’s branded paper and included the tenancy address and a breakdown of the work required (i.e. “17 hours labour at £20 per hour”).

Based on the evidence provided, the adjudicator was satisfied that there was a deterioration in the condition of the garden and that a significant amount of work would be involved to return it to a similar standard as noted at the start of the tenancy. Given the size and scope of the work required, the adjudicator felt the £340 claimed for was a reasonable total charge for the work involved and therefore awarded the agent the full disputed amount.

[So what are the key points here?](#)

It can be particularly helpful in disputes over gardening to provide a photograph or video which shows the condition of the garden at the start and end of a tenancy: while a check-out report may note that the garden is “overgrown” or “requires weeding”, a photograph or video can effectively show the extent of the deterioration in condition. It is important that the photographs are dated as close to the start and end of the tenancy as possible, otherwise it can be argued that the condition of the garden may have naturally deteriorated in the interim period.

It is also helpful if the photographs are taken from the same position and scale at the start and end of the tenancy to provide the adjudicator with a “like for like” comparison. If, for example, a photograph from the end of the tenancy is a close up of weeds growing between paving slabs at the bottom of the garden, while the check-in photographs were taken from the back door, the adjudicator may be unable to use the photographs as a basis for an award.

As with any dispute, visual records can support a written check-in and check-out report, but they can rarely replace the written word. Remember, SafeDeposits Scotland will not visit the property: where photographs are not clear, or if it becomes a case of one word against another, the adjudicator will rely on the written check-in and check-out reports submitted.

The landlord must quantify their claim to demonstrate that the amount claimed for is a fair and reasonable amount. If the costs claimed appear reasonable for the work involved, and can be referenced back to check-in and check-out reports, the adjudicator is more likely to award the amount claimed.

Special items: Knock on wood



The landlord in this dispute claimed for the full deposit because of damage to the kitchen worktops.

Amount of deposit in dispute	Award to tenant	Award to landlord
£525.00	£525.00	£0.00

The check-in report submitted by the landlord specified that the worktop was in “reasonable condition with some water marks around the sink”. The tenant had noted on the check-in report that sealant around the sink area was “patchy and poorly applied”. The photographs enclosed with the check-in report supported the tenant’s comments.

The landlord also submitted a check-out report which stated that the condition of the worktop was “very poor” with “extensive water marks” and the surface had “warped causing the sealant to peel and gap”. The photographs enclosed with the check-out report showed that the condition of the worktop had deteriorated considerably since the start of the tenancy.

The tenant provided a report from a carpenter which specified that the correct way to take care of solid wooden worktops is to oil them approximately every six months. However, the report also stated that the worktops had been varnished which was incorrect and meant that it was no longer possible to properly care for them by oiling. The report confirmed the varnish would have provided no protection against water damage and a lack of drainer grooves by the sink would only have exacerbated the problem.

The tenant also argued that the landlord had at no point specified that the worktops had to be cared for in a particular way. The landlord had also visited the property routinely and had at no point made any reference to the worktops.

The landlord argued that the tenant should have reported the deterioration of the worktops during the tenancy and failing to do so constituted neglect.

In this case the adjudicator decided to award the full disputed amount to the tenant. As the evidence supported a deterioration in the worktops’ condition, the issue then became one of responsibility. The tenant highlighted the poor repair of the worktops and sealant at the start of the tenancy and provided a report to support his position. There was no evidence submitted to show that the tenant had been given any advice on how to correctly care for the worktops. As the carpenter’s report confirmed that the worktop had been varnished, the adjudicator noted that even if the tenant had oiled them it would have had no effect. The adjudicator also noted that the lack of any drainage facility, such as drainer grooves or a draining board, contributed to the deterioration of the worktops. The adjudicator felt the tenant was not responsible for any damage exceeding fair wear and tear.

[So what are the key points here?](#)

If there is an item in the property which requires particular care, this should be made clear to the tenant at the beginning of the tenancy. It is not reasonable to assume that the tenant will know how to take care of an unusual item without express instruction. We recommend that instructions are put in writing and signed by the tenant, as evidence that the tenant has been informed on the correct way to care for an item. It may be helpful to include a specially negotiated clause at the end of the tenancy agreement with specific instructions on how the tenant must care for the item.

If the landlord had noticed any deterioration in the condition of the worktops during routine property inspections, he should have brought this to the tenant’s attention in writing. While not as ideal as instruction from the beginning of the tenancy, advice on the proper method to care for the item may have prevented any further damage to the surface. In the event of a dispute, the landlord could also have provided a copy of any communication during the tenancy as evidence that the tenant had been made aware of the proper method to care for the item for a period of the tenancy.



Infestation: Unwelcome 'visitors'

This dispute centred around an infestation of moths in a property.

Amount of deposit in dispute	Award to tenant	Award to agent (on behalf of landlord)
£500.00	£500.00	£0.00

The landlord claimed £180 for specialist treatment to deal with a moth infestation, £250 for damage caused to carpets by the moths and £70 for compensation to the new tenants. The new tenants reported damage to the landlord's carpet and to their clothes two weeks after they moved in.

The outgoing tenants denied any knowledge of a problem with moths when they were in the property. The lease contained a general obligation for the tenants to report any problems to the agent during the tenancy, but nothing had been reported by the tenants or noted by the agent during periodic inspections. Although the check-out report noted a number of items for which the tenants were responsible, there was no reference to any damage which might have been attributable to an infestation.

The landlord commissioned a report from a specialist treatment company. According to the contractor's report, the extent of the damage suggested that the moths were well established and that this must have been a long-term problem.

Based on the evidence, the adjudicator was unable to conclude that the tenants had breached the terms of the lease. There was no evidence to suggest that they had failed to report a problem during the tenancy and no indication from the check-out that there was an issue at the end of the tenancy. Although the contractor's report indicated a relatively long-term problem, there were a number of possible scenarios. It was possible, for example, that larvae in the property had predated the tenancy in dispute but had been dormant until disturbed by the tenants moving out or it was equally possible that the new tenants had brought the problem with them from their previous property.

[So what are the key points here?](#)

Moth damage is particularly difficult to deal with in a dispute, unless the problem is evident either during or at the end of the tenancy. It may be difficult in most cases to establish that a tenant was responsible for the presence of the moths. However, if damage was noticeable, the tenant will generally have a duty to report it and allow the landlord to address it and mitigate his loss.

If the tenant has not reported damage which was obvious at the end of the tenancy, it is likely that the adjudicator will conclude that they were responsible at least for allowing the problem to worsen and the loss to the landlord to increase.

The person conducting a periodic or check-out inspection should be aware of the possibility of a moth infestation arising and the features to check for.

Other sources of infestation, such as fleas, may not be any easier to prevent. However, it may be possible to predict the increased possibility of a flea infestation if a pet is allowed during the tenancy. In these circumstances, a landlord may wish to consider negotiating a special condition/clause with the tenant that a pet will be allowed on condition that the tenant arranges to have the property treated by a professional fumigation contractor at the end of the tenancy and that a receipt is provided for this work.



Damage: When wear is fair

The landlord claimed £65 for cleaning and £140 for repainting due to marks on the walls at the end of the tenancy.

Amount of deposit in dispute	Award to tenant	Award to landlord
£205.00	£115.00	£90.00

The inventory/check-in report described the property and its contents as being in “good clean condition unless otherwise stated” with no additional comments in relation to cleaning. There was a note to “minor marks around the doorframe” in reference to the walls in the hallway.

According to the check-out report, the property was generally clean at the end of the tenancy but with light dust in a number of areas and further cleaning required to the oven and hob due to burnt on grease marks. In relation to the hallway, the check-out report noted heavy scuff marks to one side, possibly caused by leaning a bicycle up against the surface. The facing wall was noted to have occasional light marks. The landlord submitted an estimate from a contractor to repaint three walls including the area around the door.

The tenants said that they left the property three weeks before the end of the tenancy and that it was clean at that point. Any dust was therefore, according to the tenants, not their responsibility. The tenants said that they had cleaned the oven and hob thoroughly but they were old appliances and it was not possible to remove all the marks.

The adjudicator awarded the landlord the full cost of cleaning, noting that the tenants were responsible for ensuring that the property was clean at the end of the tenancy and not just at the point they left. Although it appeared that the tenants had tried to clean the oven and hob, the evidence suggested it was less clean at the end of the tenancy. The amount claimed by the landlord appeared reasonable for the work required.

In assessing the claim for redecoration, the adjudicator’s view was that the décor was in generally good condition at the start of the tenancy, although it did not appear to have been freshly painted. The hallway is a “high traffic” area and the property was occupied by three students for a period of one year. It was therefore to be expected that the condition of the walls would deteriorate compared to the start of the tenancy in the course of normal occupation.

The evidence demonstrated that the condition of two of the three walls had not changed beyond what would reasonably be expected. The damage to the third wall seemed to be more extensive and the adjudicator agreed that a contribution towards the redecoration was reasonable. A landlord should expect to have to redecorate a hallway every two to three years because of its location in the property. It was therefore likely that the condition of the third wall meant that repainting may have to be done around 12-18 months ahead of a normal schedule. Taking into account the timescales and the fact that only one wall was damaged beyond fair wear and tear, the adjudicator awarded £25 as a contribution towards redecoration.

[So what are the key points here?](#)

Fair wear and tear is “damage” in the sense that it represents a change in the condition of an item. However, it is a level of change or damage that the law regards as reasonable and arising out of the normal occupation of the property. The crucial point to understand is that the tenant is not responsible for damage that might be classified as fair wear and tear.

Determining the boundary between fair wear and tear and more extensive damage is a matter of judgement depending on the evidence presented. The adjudicator will consider a number of variables including the length of the tenancy, the number of occupants, the location of the damage and the quality of the item. In general terms, the longer the tenancy or the greater the number of occupants, the higher the level of wear and tear to be expected. Where there is enough evidence available, the adjudicator will use general industry guidelines on the expected lifespan of an item – for example, that décor in a hallway might last for two to three years, but décor in a bedroom might last five years.



Abandoned items: On the twelfth day of Christmas

This case looks at responsibility for the cost of removing items from the property at the end of the tenancy.

Amount of deposit in dispute	Award to tenant	Award to agent (on behalf of landlord)
£45.00	£0.00	£45.00

The landlord and tenant reached agreement for the tenancy to terminate early, with the tenant leaving the property on 3rd January 2015 and the last day of the tenancy being 5th January 2015.

When the agent conducted the check-out, they noticed that the tenant had left their Christmas tree outside the front door. The landlord's claim was for the cost of removing the large tree before the new tenants accessed the property two days later. In support of the claim, the agent produced an invoice for the removal and disposal of the tree at a local recycling centre.

The tenant argued that they had assumed that the tree would be removed as part of the usual "green" refuse collection and that this was delayed at this time of year because of additional festive holidays. The tenant also stated that it had not been possible to arrange a separate private collection and they did not have a suitable vehicle to dispose of the item themselves.

The adjudicator agreed that the tenant was responsible for meeting the costs of disposing of the tree. They were bound to ensure that any additional items, particularly those of an unusual size, were removed from the property by the agreed end date of the tenancy. As the amount claimed was reasonable, the adjudicator awarded the sum claimed to the landlord.

[So what are the key points here?](#)

The fact that a tenancy ends early does not alter the tenant's usual responsibility for ensuring that the property is free of their belongings. Placing them outside the property is not sufficient.

The adjudicator will take the pragmatic view that rubbish placed in a normal rubbish bin for the regular collection has been satisfactorily removed. However, the tenant would be responsible for ensuring that the bin was not overflowing or that any items of an unusual size were disposed of separately.

Tenants sometimes make arrangements for items to be collected but their contractor lets them down. Their argument may be that they have already incurred the cost and do not wish to have to pay twice. Although it is unfortunate that the tenant has been placed in this position, they are nevertheless responsible for meeting the landlord's loss in having the item removed through an additional payment if necessary.

The landlord or agent is not obliged to allow the tenant back to the property to remove items or undertake additional work after the end of the tenancy.



Time: Time is money

This case looks at how an adjudicator approaches claims by a landlord for the cost of their time.

Amount of deposit in dispute	Award to tenant	Award to landlord
£458.81	£188.81	£270.00

The landlord claimed £85 for cleaning, £210 for redecoration, £45 for replacement items and £118.81 for administration and travel costs. The claim was supported by an inventory and check-out report demonstrating the change in condition of the items claimed for during the course of the tenancy.

The landlord explained that he had undertaken the work himself and provided receipts for cleaning and decorating materials and the replacement items. In addition, the landlord provided receipts for travel costs to and from his property to undertake the periodic inspections, the check-out inspection and his time in preparing the report and sourcing replacement items. Included in the landlord's claim was a charge of £25 for the costs of dealing with the dispute.

While the tenant agreed that there were some outstanding issues at the end of the tenancy, he thought that the deductions proposed were excessive given that the landlord said he was doing the work himself.

Having considered the evidence, the adjudicator was satisfied that the property had been left less clean at the end of the tenancy, that the décor had deteriorated beyond fair wear and tear in two rooms and that two items were missing. The tenant was therefore responsible to compensate the landlord for his loss. The evidence presented for cleaning supported the amount claimed including the costs of materials bought by the landlord. In relation to the redecoration, the adjudicator awarded £150 as a contribution on the basis that the walls were in reasonable but not freshly painted condition at the start of the tenancy. The adjudicator also awarded £35 for the replacement of the missing items to allow for the fact that they had not been new at the start of the tenancy.

The adjudicator made no award for the landlord's claim for costs. In particular the adjudicator was unable to make an award for the cost of the check-out report since this was a charge which the tenant would have been unable to avoid even if there had been no issues at the end of the tenancy. It is not possible for a landlord to recover any costs of participating in ADR from the tenant's deposit.

In relation to the costs of sourcing replacement items and normal travel to and from the property to undertake periodic inspections and the check-in and check-out, the adjudicator explained that the primary purpose of the deposit is to compensate the landlord for the financial loss caused by damage to the property, missing items or unpaid rent, rather than the administrative costs in attending to the management of the property.

[So what are the key points here?](#)

Landlords are entitled to undertake any work required at the end of the tenancy themselves and are not required to engage the services of a professional contractor.

The amount a landlord will be able to claim to undertake the work will depend primarily on the evidence provided to show their loss. The adjudicator is looking to assess the reasonable cost of rectifying the loss caused by the tenant's action or inaction. In the case of cleaning, for example, the adjudicator would consider how much cleaning was needed to return the property to the same condition as at the start of the tenancy and what a reasonable rate for that might be. This will not necessarily be the same rate which might apply to an occasional/accidental landlord in his normal course of employment (for example, an adjudicator would not apply a £150 hourly rate for cleaning on the basis that this represented a landlord's normal rate of earnings).

There are inevitable costs in the normal management of a property, whether a landlord chooses to use the services of an agent to manage the property for them or if they undertake the management of the property themselves.



Unpaid utility bills: Meter readings

This case looks at how an adjudicator approaches claims by a landlord for unpaid utility bills.

Amount of deposit in dispute	Award to tenant	Award to landlord
£282.63	£282.63	£0.00

The landlord claimed £282.63 from the deposit on the basis that the tenant had left unpaid utility bills at the end of the tenancy. In support of the claim, the landlord supplied a copy of a bill found at the property following the tenant's departure showing the amount claimed as unpaid.

The tenant said that the outstanding amount had been disputed with the utility supplier but had now been paid. Having seen the tenant's evidence, the landlord submitted a supplementary statement commenting that the tenant had failed to provide any proof that the outstanding balance had been settled.

The tenancy agreement stated that the tenant was responsible for transferring the utility accounts into their name for the duration of the tenancy. The copy of the bill provided by the landlord was in the tenant's name.

The adjudicator awarded the disputed amount to the tenant on the basis that there was no evidence of a loss to the landlord. The utility accounts had been transferred into the tenant's name and any question of sums owing was a contractual matter between the tenant and the utility company.

[So what are the key points here?](#)

The primary purpose of the deposit is to compensate the landlord for any loss suffered as a result of the tenant's actions or inactions. If the landlord is able to establish a direct loss as a consequence of unpaid utility accounts, they will have the basis for a claim.

There are occasions when the tenant might fail to transfer the accounts into their name. In these circumstances, if the liability for payment is with the landlord, the landlord may be successful in claiming from the deposit.

If the bill is in the tenant's name, it is not necessary for the tenant to show that the amount outstanding has been settled. The utility company will need to pursue the matter directly with the tenant.

Tenants sometimes change the type of meter in a property with or without the landlord's consent. If the landlord has given consent for this to happen, they should make clear at the time if they wish the tenant to be responsible for the costs of reinstating the meter at the end of the tenancy. If the meter has been changed without consent, the landlord is entitled to claim for the reasonable costs of reinstating the original type of meter.



Damage: Repair or replace?

This case looks at how an adjudicator approaches claims for a damaged item to be replaced with a new equivalent.

Amount of deposit in dispute	Award to tenant	Award to landlord
£185.00	£100.00	£85.00

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?](#)

The adjudicator will consider the most appropriate remedy for each claim based on the individual circumstances. Sometimes it is reasonable to have an item repaired, but sometimes replacement is necessary.

Where replacement or repair would be equivalent in cost terms, it is reasonable for the adjudicator to consider an award for replacement. However, in assessing the landlord’s loss, the adjudicator will still have to consider the impact of fair wear and tear and betterment. This will mean that full replacement cost is unlikely to be awarded.

A landlord might argue that full repair cost should be awarded on the basis that repair of an item will restore it to the condition it should have been returned in at the end of the tenancy. Although repair is appropriate in many circumstances, the landlord also has a general duty to mitigate his loss. Where repair is a more expensive, or equivalent, option, the adjudicator will consider which option most reasonably represents the landlord’s loss.

Ending a tenancy: Sorry, I need to leave



This case looks at a claim relating to the early termination of the lease at the tenant's request.

Amount of deposit in dispute	Award to tenant	Award to agent (on behalf of landlord)
£975.00	£461.30	£513.70

The tenant asked to be released from the tenancy early because they had received a new job offer in another area. The landlord said that they were prepared to let the tenant leave, subject to a satisfactory new tenant being found and payment by the tenant of the costs of re-advertising the property and referencing the new tenant.

The agent provided a copy of a letter they had sent to the tenant stating that early release was subject to a satisfactory new tenant being found and the payment of the landlord's costs in re-advertising the property. The agent subsequently wrote to the tenant to confirm that a new tenant would move in on 27th September and proposed a check-out appointment for the existing tenant of 26th September. However, on 20th September the agent contacted the tenant again to explain that the proposed tenant had failed their referencing checks and it was necessary to seek an alternative. A replacement tenant was found from 7th October and a new check-out arranged.

The agent submitted a final statement of account to the tenant to include outstanding rent of £213.70 from 27th September until 6th October and a cleaning charge of £125. The agent stated that the remainder of the deposit was being claimed for property management fees and re-letting and referencing costs. The breakdown of the claim indicated that it included £386.30 for management fees for the unexpired portion of the lease. The landlord had asked for this to be added to the claim on the basis that the agent had charged the full term management fees to him from the first month's rent. The tenant agreed to meet the cleaning costs but objected to the claim for additional rent on the basis that it was not his fault that the first tenant had been unsuitable. The tenant also objected to paying for the management fees.

The adjudicator was satisfied that the tenant had been forewarned that the obligation to pay rent was subject to a satisfactory new tenant being found, which therefore meant an award for additional rent was reasonable. However, the letter sent to the tenant to confirm the terms of the release made no mention of the referencing or management fees, so the adjudicator felt it unfair for the tenant to meet these costs. The tenant had agreed to the terms set out to him in good faith and it was not reasonable for additional costs to be charged retrospectively.

[So what are the key points here?](#)

In the absence of a break clause, a landlord is not obliged to release a tenant early from a tenancy agreement: they must carefully consider the costs involved in finding a new tenant as well as ensuring that the departing tenant remains liable for the rent until a new tenant is found. If a landlord wishes to claim for management fees paid to an agent for the remainder of the tenancy, they must be able to demonstrate that these charges were paid upfront and they have therefore suffered a loss.

The outgoing tenant needs to be made aware of the costs they will be asked to meet in return for ceasing to pay rent. These should be set out in as much detail as possible so the tenant can make a properly informed decision.

An agent or landlord is sometimes faced with a situation where the tenant leaves the property without agreement. The landlord will need to make a decision to accept the tenancy is at an end before approaching SafeDeposits Scotland. It is not possible to claim for future outstanding rent. In these circumstances, the landlord or agent needs to make clear the basis on which the claim is being made. If it is a claim for unpaid rent, the landlord will need to provide a rent statement demonstrating outstanding rent up to the point the tenancy was accepted to be at an end.

If the parties have agreed an end date, the landlord or agent should wait until that point before conducting a check-out, even if the tenant has already left. Conducting a check-out in advance of the agreed end date may imply acceptance of an earlier surrender.



Table of evidence and key

Please note that the following tables are for guidance only: they are not intended to guarantee when an award will be made. Please remember that providing the documents is half the battle: they need to be of good quality and relevant to be of maximum use. Every dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us.

Key	✓	Required – your claim is likely to fail without these documents
	✓	Recommended – your claim is more likely to be successful with these documents

	Cleaning	Damage	Redecoration	Missing items	Gardening	Rent
Tenancy agreement	✓	✓	✓	✓	✓	✓
Statement of claim	✓	✓	✓	✓	✓	✓
Inventory/check-in report	✓	✓	✓	✓	✓	
Photographs from start of tenancy	✓	✓	✓	✓	✓	
Invoices from before the tenancy	✓	✓	✓	✓	✓	
Check-out report	✓	✓	✓	✓	✓	
Photographs from end of tenancy	✓	✓	✓	✓	✓	
Invoices/quotations/estimates for work done at end of tenancy	✓	✓	✓	✓	✓	
Special permissions/refusal of permissions	✓	✓	✓			
Rent statement						✓
Notice to quit correspondence						✓
Bank statements showing pattern of payments						✓
Deed of surrender, where you have agreed early termination						✓
Lease renewals/addendum						✓
Letters/emails/file notes/text messages	✓	✓	✓	✓	✓	✓

Table for cleaning claims



Evidence	Requirement	Why?
Tenancy agreement	✓	This is vital for every claim as it establishes the contractual basis for the deposit to be used and the tenant's obligations under the agreement. We need a signed copy. If the tenant has been given permission to keep a pet on the condition that the property is professionally cleaned at the end of the tenancy despite not being clean at the start, this should be by way of a specially negotiated clause at the end of the lease if the landlord wishes it to be binding on the tenant without looking at the merits of the check-in and check-out reports.
Statement of claim	✓	We need to know what you are claiming for. We cannot "read between the lines" to construct your claim, so you must itemise your claim and the reasons for it.
Inventory/check-in report	✓	This establishes how clean the property was at the start of the tenancy. "Good condition" does not mean that the property was clean, so both condition and cleanliness should be addressed. There can be different levels of cleanliness such as "domestic standard" and "professional standard" and a landlord cannot charge the tenant for any element of cleaning that would leave the property with a higher standard of cleanliness than that at the beginning of the tenancy. You can document smells, or the absence of odour, in writing and don't forget about the inside and outside of any windows.
Photographs from start of tenancy	✓	It is very difficult to establish cleanliness with photographs alone, but they can be helpful if they are like-for-like. It is very easy to produce photographic comparisons of the oven, bath sealant or grout, for example, but not so effective to demonstrate dust or smells. This is why well-written check-in/check-out reports are your primary evidence.
Invoices from before the tenancy	✓	Perhaps your inventory is silent on the cleanliness of the carpets at the start of the tenancy, but the carpets had been professionally cleaned. An invoice for this work showing the date, location and extent of the work done can be helpful to establish this. Similarly, perhaps the oven was brand new or a particular room was freshly painted but this wasn't stated on the inventory. Again, an invoice for this work is good supporting evidence.
Check-out report	✓	This establishes how clean the property was at the end of the tenancy. Cleaning discrepancies should be carefully noted and mirrored by the contractor's invoice. Remember, an adjudicator is unlikely to make an award to the landlord for cleaning where the cleanliness at the start and end of the tenancy cannot be demonstrated.
Photographs from end of tenancy	✓	As above, it is very difficult to establish cleanliness with photographs but they can be useful to support your written check-out report.
Invoices/quotations/estimates for work done at end of tenancy	✓	Detail is key here. An invoice for £200 for cleaning is not as helpful as an invoice which states that £200 consists of £50 oven cleaning, three hours cleaning the bathroom, cleaning of three carpets, five hours parking charges and VAT.
Permission/refusal of permission to keep a pet	✓	Claims are sometimes for special cleaning due to the tenant keeping a pet. Often the landlord will give consent to the tenant to keep a pet. This consent should be in writing and should include any conditions attached. Any requirement to professionally clean the property should be by way of a specially negotiated clause (please see above). Similarly, refusal of permission to keep a pet should also be in writing and presented to the adjudicator.

Table for damage claims



Evidence	Requirement	Why?
Tenancy agreement	✓	This is vital for every claim as it establishes the contractual basis for the deposit to be used and the tenant's obligations under the agreement. We need a signed copy.
Statement of claim	✓	We need to know what you are claiming for. We cannot "read between the lines" to construct your claim, so you must itemise your claim and the reasons for it.
Inventory/check-in report	✓	This establishes the condition of the property at the start of the tenancy. If the property has a brand new wooden kitchen worktop, it should be detailed here, for example.
Photographs from start of tenancy	✓	It is difficult to demonstrate condition by photographs alone, so they are more helpful where they support a written check-in report. They can be useful to provide an overview of a room and may contain elements that have been missed in the check-in report. Any photographs supplied should be clear, scaled, dated and labelled.
Invoices from before the tenancy	✓	Invoices can be helpful to show that an item was new at the start of the tenancy or to support the landlord's statement as to the age, quality and cost of the item. They are particularly useful where there is sufficient detail, such the make and model of an appliance with delivery address and dates aligning with the tenancy.
Check-out report	✓	This establishes the condition of the property at the end of the tenancy. Damaged items should be carefully detailed with reference to the check-in report and then mirrored by the contractor's invoice. Damage that is not recorded in the check-out report is not likely to result in award by the adjudicator.
Photographs from end of tenancy	✓	As above, it is very difficult to establish condition with photographs but they can be useful to support your written check-out report. It is difficult to predict which items will be damaged at the end the tenancy so unlikely there will be a like-for-like photograph from the start of the tenancy for comparison at the end. Where they are supplied, they should be clear, scaled, dated and labelled.
Invoices/quotations/ estimates for work done at end of tenancy	✓	Detail is key here. This should show the item that is to be repaired/replaced. Sometimes landlords will take the opportunity to extend remedial work to other areas of the property and it should be clear how the invoice is to be apportioned between the tenant and landlord. For example, the tenant may have damaged a worktop and the landlord decided to upgrade to a better quality. The landlord can only be compensated for the loss to the original quality of worktop and this should be made clear on the invoice. The adjudicator is unlikely to award the full cost of a repair as there is always an element of accepted fair wear and tear and the landlord would be put into a better position than they would have been had the tenant not damaged the item.
Permission/refusal of permission to keep a pet	✓	Claims are sometimes due to damage caused by a pet. Often the landlord will give consent to the tenant to keep a pet. This consent should be in writing and should include any conditions attached. Similarly, refusal of permission to keep a pet should also be in writing and presented to the adjudicator.



Table for redecoration claims

Evidence	Requirement	Why?
Tenancy agreement	✓	This is vital for every claim as it establishes the contractual basis for the deposit to be used and the tenant's obligations under the agreement. We need a signed copy. It may state that the tenant must not make any alterations without the express permission of the landlord.
Statement of claim	✓	We need to know what you are claiming for. We cannot "read between the lines" to construct your claim, so you must itemise your claim and the reasons for it.
Inventory/check-in report	✓	This establishes the condition of the property at the start of the tenancy and should extend to décor. If the walls have been freshly painted, or the entire property redecorated two years ago, that should be stated here. The colour, décor type (paint, wallpaper, etc.) and any marks should be noted. Descriptions should extend to skirting boards, ceilings, tiles, etc.
Photographs from start of tenancy	✓	It is very difficult to demonstrate the standard of décor in photographs. Dents and scuffs are not usually visible in wide overview photos and it is not usually realistic to detail every surface close-up. This is why well-written check-in/check-out reports are your primary evidence. Photographs can be helpful in showing the colour of the walls where the tenant has redecorated without permission, but these should be clearly labeled as relating to a particular room, as often an entire property can be decorated in the same way.
Invoices from before the tenancy	✓	Perhaps your inventory is silent on the décor of the property at the start of the tenancy, but the property was newly renovated immediately prior to tenancy. An invoice for this work showing the date, location and extent of the work done can be helpful to establish this. It will also be a good starting point for the adjudicator to establish the residual value in the décor.
Check-out report	✓	This establishes the condition of the property at the end of the tenancy. Marks, scuffs, pin hooks, nicotine stains, mould/mildew as well as any major changes to the décor should be carefully detailed and then mirrored by the contractor's invoice.
Photographs from end of tenancy	✓	As above, it is very difficult to establish décor with photographs but they can be useful to support your written check-out report.
Invoices/quotations/estimates for work done at end of tenancy	✓	Detail is key here. This should show the room(s) (to be) decorated and the work (to be) carried out. Sometimes landlords will take the opportunity to freshen up other areas of the property and it should be clear how the invoice is to be apportioned between the tenant and landlord. The adjudicator is unlikely to award the full cost of redecoration as there is always an element of accepted fair wear and tear and the landlord is being put into a better position than they would have been had the tenant's actions not led to the need for redecoration.
Permission/refusal of permission to decorate	✓	Often the landlord will give consent to the tenant to decorate. This consent should be in writing and state the areas to which the permission is related, detail whether it is for paint/wallpaper, etc., and any permitted colour(s). It should state if the permission is granted on the condition that the property is returned to the original colour(s) at the end of the tenancy. Similarly, refusal of permission to decorate should also be in writing and presented to the adjudicator.



Table for missing items claims

Evidence	Requirement	Why?
Tenancy agreement	✓	This is vital for every claim as it establishes the contractual basis for the deposit to be used and the tenant's obligations under the agreement. We need a signed copy.
Statement of claim	✓	We need to know what you are claiming for. We cannot "read between the lines" to construct your claim, so you must itemise your claim and the reasons for it.
Inventory/check-in report	✓	This establishes the contents of the property at the start of the tenancy, along with their condition, and should list all furniture, fixtures, fittings, and other items, such as contents of cupboards. The extent of the detail is up to the landlord, but if the landlord would like to potentially claim for a particular item at the end of the tenancy, it must be contained here. For example, a property may be returned with different door handles. If these were not listed and described in the check-in report, the adjudicator is unlikely to make an award. If an item is brand new, this should be stated. It is also useful to state the age of contents in order to help establish their residual value.
Photographs from start of tenancy	✓	It is very difficult to photograph every item in a property, but they can be of help to support the written inventory. For example, the inventory may not mention curtains but there is an overview image of the room showing curtains. The absence of detail over the quality and condition of the curtains would be detrimental to the claim, but the adjudicator would at least be able to establish that the curtains were present.
Invoices from before the tenancy	✓	An adjudicator will rarely award the full replacement cost of missing items as there will always be an accepted element of fair wear and tear and the landlord would be placed in a better position with a brand new item than they would have been had it remained in the property. Invoices can provide the adjudicator with a starting point for calculating an item's residual value as it will show the age, quality and cost at the time of purchase. Without this information, the adjudicator may award an amount lower than that sought by the landlord. Where an item was omitted from the check-in report, in some circumstances an invoice can show that the item was present, for example where the delivery address and date align with the tenancy details.
Check-out report	✓	This establishes the contents of the property at the end of the tenancy and missing items should be noted here.
Photographs from end of tenancy	✓	One cannot take a photograph of a missing item, but is possible to demonstrate what is there. For example, a photograph at check-in may have shown the contents of the inside of the kitchen cupboards and at check-out the cupboards may be cleared. These should not replace a well-completed check-out document.
Invoices/quotations/ estimates for work done at end of tenancy	✓	Detail is key here. This should show the cost, brand and quality of the item and should be like-for-like. If the landlord is taking the opportunity to replace a missing item with one of better quality, the adjudicator will make an allowance for this in any award they may make.



Table for gardening claims

Evidence	Requirement	Why?
Tenancy agreement	✓	This is vital for every claim as it establishes the contractual basis for the deposit to be used and the tenant's obligations under the agreement. We need a signed copy.
Statement of claim	✓	We need to know what you are claiming for. We cannot "read between the lines" to construct your claim, so you must itemise your claim and the reasons for it.
Inventory/check-in report	✓	This establishes that the property has a garden and its seasonal condition. It should describe the garden, such as whether it has a lawn, flowerbeds or patio. Any significant features such as a shed or ornaments should be
Photographs from start of tenancy	✓	Gardens are the exception to the rule that photographs should not replace the written word as it is very easy to provide like-for-like photographs from the start and end of the tenancy.
Invoices from before the tenancy	✓	If a gardener was contracted close to the start of the tenancy, this can be helpful to show that the garden was, in some way, tidy. Detail is key as an invoice for £300 which states that it is simply for gardening may reflect a severely overgrown garden was brought up to the standard of a moderately overgrown garden. A £300 invoice detailing that all lawns were mowed, hedges trimmed and beds weeded gives a better indication of the condition of the garden at the start of the tenancy.
Check-out report	✓	This establishes the state of the garden at check-out. Any missing shrubs or garden features should be listed, along with descriptions of how the garden has deteriorated.
Photographs from end of tenancy	✓	As above, gardens are the exception to the rule that photographs are not as good as the written word. Photographs from the same angles as those taken at check-in are very helpful to the adjudicator.
Invoices/ quotations/ estimates for work done at end of tenancy	✓	Detail is key here so that the work carried out reflects the amount of work required to correct the deficiencies noted in the check-out report or photographs. Number of hours, hourly rate, work carried out, VAT and parking charges should be itemised and reflect the check-out report. A landlord may take the opportunity to tidy up the garden further, but this should not be charged to the tenant and any apportionment should be clarified.



Table for rent arrears claims

Evidence	Requirement	Why?
Tenancy agreement	✓	This is vital for every claim as it establishes the contractual basis for the deposit to be used and the tenant's obligations under the agreement. We need a signed copy. We need to establish the amount of rent due, date due, initial fixed term and how the tenancy will continue in the absence of new fixed term lease. We may also need to establish how the tenant should bring the tenancy to an end – for example, one month's notice in writing. If you are looking to charge interest or late payment charges, these must be included in the tenancy agreement.
Lease renewals	✓	Where applicable, this will demonstrate whether the tenant has signed up to a new fixed term.
Addendum	✓	Where applicable, this will establish any variation of the original contract and must be signed by both parties.
Statement of claim	✓	We need to know what you are claiming for. We cannot “read between the lines” to construct your claim, so you must itemise your claim and the reasons for it. You should explain the circumstances that led the arrears to accumulate – for example, the tenant left the property before the fixed term or gave insufficient notice. You should state the total extent of the arrears, even that which exceeds the amount of deposit held. You should clearly itemise any amounts of interest or late payment charges.
Rent statement	✓	It is impossible to prove a negative, so we need the landlord to demonstrate what did happen – for example, the tenant paid their rent by standing order consistently throughout the tenancy until it stopped suddenly. Or it will demonstrate that payments were erratic, of different amounts, by different payment methods, paid on different days of the month, etc. A good rent statement will show the period of rent due, date due and amount due and then the amount paid towards that rental period, the date the payment was made, the method of payment, and the remaining (negative) balance. The statement should be for the entire tenancy, not just the rental period for which you are claiming. The statement should include any interest applied, or late payment charges.
Deed of surrender	✓	Sometimes tenants want to quit the tenancy before the end of the fixed term and often landlords will accept this, bringing the tenant's liability to an end from a particular date. Sometimes there are conditions attached, such as the tenant being liable for the rent and council tax until a suitable new tenant moves in, that the landlord can have access to complete the check-out report and conduct viewings or that the tenant pays to re-advertise the property. All these terms should be in writing between the parties so that there is clarity over the tenant's continuing liability. Should a landlord enter the property to do the check-out report, or instruct contractors to do remedial works without an explicit deed of surrender, the adjudicator may conclude that there has been an implied surrender, as the tenant no longer had exclusive possession of the property from that date, and no rent would be awarded after that date.
Bank statements	✓	This can be helpful to demonstrate a consistent pattern of payments – for example, where the tenant paid on the first of every month by standing order and then stopped. It is less useful where payment methods and dates have been erratic – for example, by cash one month, cheque another and then bank transfer the next.



What we say	What we mean
ADR	<p>Alternative dispute resolution (ADR) is an alternative way of resolving disputes, other than by using the traditional route of the courts. It is an evidence based process, where the outcome is decided by an impartial and qualified adjudicator. It is not a process of mediation, arbitration, or counselling and the parties will never be required to meet with the adjudicator. Nor will the adjudicator visit the property subject to the tenancy agreement or dispute. All tenancy deposit schemes use the “adjudication” method to deal with deposit disputes.</p>
Adjudicator	<p>The adjudicators are independent individuals under contract to SafeDeposits Scotland, which means that they are separate from the day to day administration of the scheme. This means they can make their decisions independently and without influence from any factors affecting the scheme.</p> <p>Regardless of their employment status, SafeDeposits Scotland is contractually bound to ensure that our adjudicators are appropriately trained, qualified and have the skills necessary to make fair and reasoned decisions. The adjudicators used by SafeDeposits Scotland are members of the Chartered Institute of Arbitrators. It is not compulsory for a scheme to state the name of a particular adjudicator or to disclose their identity to either the landlord or tenant.</p>
Appropriate remedy	<p>This is about achieving the most reasonable solution to the issue in dispute. There are three main remedies: repair or make good, compensate or replace. The adjudicator has to be satisfied that there is not a more reasonable or cheaper remedy. For example, if there was a red wine mark on the carpet and the landlord claimed to replace the carpet before trying to establish that it could not be cleaned, the adjudicator may only award for the cleaning of the affected area. The landlord is of course entitled to replace the carpet if they wish, however the tenant can only be expected to be charged for the appropriate remedy.</p>
Betterment	<p>The adjudicator is unable to award the landlord any amount which would put them in a better position than they were at the start of the tenancy. For example, an adjudicator cannot award to have a carpet professionally cleaned at the end of the tenancy if it was not professionally cleaned at the beginning.</p>
Burden of proof	<p>When a dispute reaches adjudication, an adjudicator's starting position mirrors that of the courts: the deposit is first and foremost the tenant's money, unless the landlord can justify their claim to it. The onus is on the landlord to show why they are entitled to claim money from the deposit.</p>
Check-in report	<p>Although not setting out to be a survey, the check-in report should describe the property and its contents in sufficient for a third party (the adjudicator) to be able to get a clear idea of what the property was like when the tenant moved in. This is best achieved by providing a general description of the property and services provided together with an opening summary of the overall standard of cleanliness and condition.</p> <p>The main body of the report should comprise a more detailed description of each room starting at the main entrance and working logically through the accommodation on each floor. Where things like appliances are mentioned, it can be useful to record makes and models, which will also help in assessing costs for replacement or compensation where items are damaged. (cont.)</p>

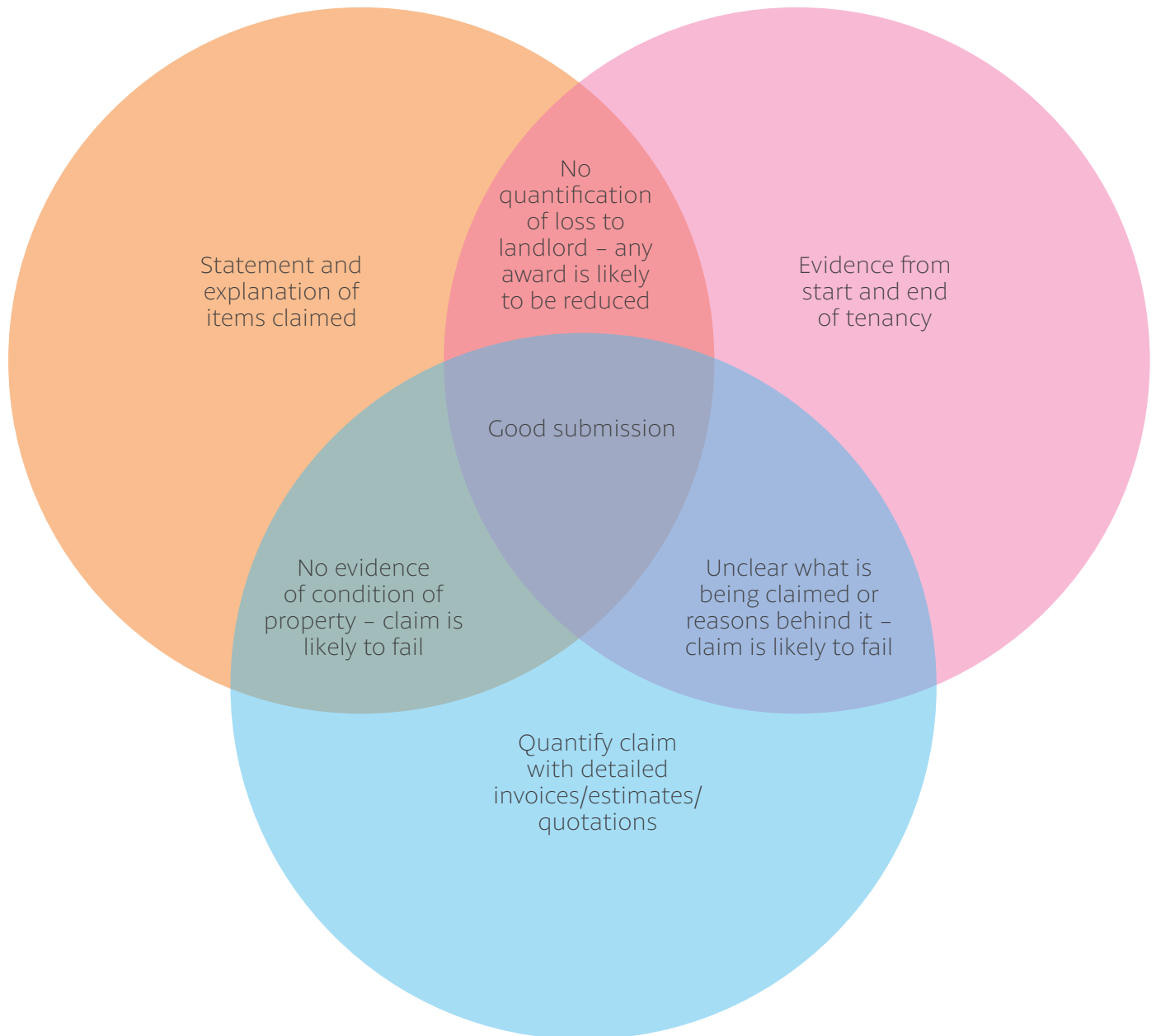


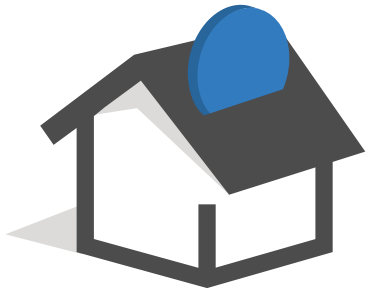
What we say	What we mean
Check-in report	<p>(cont.) The garden or outside space together with any driveway, boundary fencing, garage or outbuilding to be included in the tenancy should also be listed and the condition noted.</p> <p>Utility readings should be recorded including the level of any oil tank together with a photocopy or photograph of all the keys provided.</p>
Check-out	<p>A check-out report following the same format as the check-in report or one that combines the check-in/check-out comments on each page provides a more straightforward means of comparing the condition of the property. Once again an opening summary of the standard of cleanliness and condition provides a useful overview of the property at the end of the tenancy. Utility readings and oil levels should again be recorded and keys checked off.</p> <p>The check-out report enables the adjudicator to identify any deterioration in the condition of the property during the tenancy. A properly completed report provides an accurate description that by comparison with the check-in report will help identify any matters that are the tenant's responsibility.</p>
Cleanliness	<p>SafeDeposits Scotland takes the view that condition is not the same as cleanliness. A check-in report that only considers the condition of the property does not establish the standard of cleanliness at the start of the tenancy. Whilst the check-out report may list cleaning issues at the end of the tenancy, if the check-in report comments only on condition, the adjudicator will be unable to determine if the property's cleanliness had deteriorated during the tenancy.</p>
Estimate	<p>If you are a landlord or agent, you will need to show what loss/cost arose as a result of the tenant's failings.</p> <p>Landlords do not have to have work done or buy replacements before they send their case to SafeDeposits Scotland. They can submit an estimate or quote, instead of an invoice, to show how much it is likely to cost to put things right. If the costs claimed appear reasonable for the work involved, and can be referenced back to check-in and check-out reports, the adjudicator is more likely to award the amount claimed.</p> <p>Just because you submit an estimate or invoice, it does not mean that you will be awarded that amount. Adjudicators are very experienced in estimating costs and will use their own skill and knowledge to assess what is reasonable if a claim appears excessive. Showing the adjudicator that a cost claimed is in keeping with that charged by other similar contractors will also be helpful.</p>
Evidence	<p>If a deposit repayment is referred to ADR, we will invite the landlord and tenant to submit documentary evidence to substantiate their claim to the deposit. The type of evidence we look for includes tenancy agreements, check-in and check-out reports, rent statements, invoices, photographs, etc. The evidence is passed to the adjudicator electronically, which is why it must be in documentary form. The adjudicator can only work with the information submitted: they know nothing about the dispute except what the parties send in. Adjudicators will not usually contact landlords or tenants to ask them for missing information.</p>

Adjudication jargon buster



What we say	What we mean
Evidence portal	<p>Landlords, letting agents and tenants have access to an evidence portal through their online user account, which means they can upload all evidence to the dispute directly through the SafeDeposits Scotland website.</p> <p>If a deposit repayment is referred to ADR, the communications sent to the landlord and tenant contain step-by-step instructions on how to upload evidence via the evidence portal.</p>
Fair wear and tear	<p>Fair wear and tear is a level of change or damage that the law regards as reasonable and arising out of the normal occupation of the property. Determining the boundary between fair wear and tear and more extensive damage is a matter of judgement depending on the evidence presented. The adjudicator will consider a number of variables including the length of the tenancy, the number of occupants, the location of the damage and the quality of the item. In general terms, the longer the tenancy or the greater the number of occupants, the higher the level of wear and tear to be expected. The crucial point to understand is that the tenant is not responsible for damage that might be classified as fair wear and tear.</p>
Financial loss	<p>The landlord must be able to demonstrate a financial loss before there can be a claim. For example, it would not be enough to simply say that the tenant has not shown final utility bills, as that is not enough to prove a loss. The landlord could however demonstrate a financial loss by providing evidence to show that the account has been in debt and the tenant asked the utility company to change the meter, as there would be a financial implication in reinstating the billing meter.</p>
Mitigating loss	<p>The landlord has a general duty to take reasonable steps to reduce their potential loss. For example, taking the appropriate remedy (e.g. repairing an item instead of replacing for new), or if the tenant can't continue with the tenancy perhaps offering that once a suitable new tenant is found they could be released from their obligations.</p>
Set-off	<p>The adjudicator is not able to deal with counterclaims or claims for set-off. A common example of a set-off is where the tenant withholds some rent.</p> <p>This may happen either because the tenant has had to spend their own money doing repairs which they feel the landlord should have done or because the tenant wants compensation because there was something wrong with the property that the landlord should have fixed. A counterclaim is where the tenant claims compensation from the landlord – for example, where the tenant's belongings were damaged by a leaking pipe.</p> <p>The adjudicator can still make decisions about deductions from the deposit, but tenants who want to use set-off, or bring a counterclaim, may have to take their landlord to court to get their claim resolved.</p>
Tacit relocation	<p>This is a legal principle whereby the lease renews automatically under the same conditions as the original agreement. This would happen if there is no notice given during the specified period. For example, if there was a six month short assured tenancy (SAT) agreement in place, which did not specify what happened after the initial six months and neither party either extended or gave notice, the lease would silently renew for a further six months on the same terms as the original SAT.</p>





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SafeDeposits Scotland is an innovative partnership between landlords, agents and tenants. We would like to thank our members for their support:

