



**SafeDeposits
Scotland**

How to present your case to the SafeDeposits adjudicator



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How to present your case to the SafeDeposits adjudicator

If you present your claim properly, you can improve your chances of success. Claims can fail because Dispute Resolutions forms are not completed correctly, or because not enough evidence is sent to support the claim.

This guide is to help agents, landlords and tenants get their cases ready for adjudication – and save time for everyone involved.

This guide is split into three sections:

Section A explains how adjudicators work on a case, and gives you tips on presenting your case clearly.

Section B gives examples of well-presented cases.

Section C gives an example of a badly-presented case.

All examples are given as a guide to preparing a case.

You should not treat the examples as an indication that a claim is valid or that the amount claimed would be awarded.

Section A

What an adjudicator looks for

An adjudicator can only adjudicate on the basis of the information they are provided with. Adjudicators will not contact the parties for follow up information or supporting evidence.

When an adjudicator considers a case, they need to know what the claim is about and how much is being claimed. They will find this information in the Dispute Resolution Form or via the online information provided by the parties. It is worth taking time to make sure you have explained your position properly, so that the adjudicator is not in any doubt about what the dispute is about.

As part of the repayment process before adjudication, the landlord or agent will have been asked to break down their proposal into items that relate to:

- cleaning;
- damage to property or contents;
- redecoration;
- gardening;
- rent arrears;
- other.

The tenant will have responded to the proposal and may have agreed with some of the items claimed for, or a contribution towards the item(s). When this has happened, SafeDeposits will have paid any agreed amounts to the landlord/agent and tenant before the adjudication process starts.

When reviewing your case, the adjudicator will usually ask themselves these questions, in the following order, for each category of claim:

- What is this part of the claim for? (e.g. cleaning, redecoration, etc.);
- What are the tenant's obligations? (i.e. in the tenancy agreement and under the general law);
- Did the tenant fail to meet those obligations? (evidence from check-in and check-out reports, rent statements, etc.)
- If so, what loss did this cause to the landlord or agent, allowing for fair wear and tear? (You can get further guidance on wear and tear in our guidance document, **A guide to deposits, disputes and damages**);
- What evidence has the landlord or agent submitted to quantify their loss? (invoices, quotes, etc.).

The adjudicator can only work with the information submitted. They know nothing about the dispute except what the parties send in. Adjudicators will not contact landlords or tenants to ask them for missing information.

Top tips (agent and landlord)

If you are an agent or landlord, you need to show clearly to the adjudicator:

- what is being claimed for;
- how much is being claimed;
- why you think you are entitled to be paid;
- that the amount you are claiming is justified and reasonable.

Top tips (tenants)

If you are a tenant, you need to:

- consider each claim the landlord or agent is making and their evidence;
- explain why you think the claim is incorrect or excessive;
- support your case with evidence.

Step 1: Outline and explain the claim (landlords and agents)

- **What is being claimed?**
- **How much is being claimed?**

Although you will have already been asked to break down your claim into various categories as part of the repayment process, the adjudicator will need to know more detail about each part of the claim.

Give a brief explanation of what each part of the claim is for, and how much is claimed. For example, in a claim for cleaning, you may be claiming for several things:

Carpet cleaning	£100.00
General cleaning	£150.00
Specialist oven cleaning	£ 60.00
Window cleaning	£ 40.00
Total cleaning	£290.00

Check you have totalled the claim correctly and provide any additional information. For example, it would be helpful to know how many rooms the carpet cleaning claim involves, or how many hours' worth of cleaning is included in the claim.

Repeat this process for each of the claims you are making.

If you do not set out each part of your claim clearly, your chances of being successful may be reduced. The adjudicator will not try to piece your claim together from a collection of invoices or other documents. It is your responsibility to make the claim clear.

Although the adjudicator can only award a maximum of the deposit protected by SafeDeposits, 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.

Step 1: Outline and explain the claim (tenants)

SafeDeposits asks tenants to submit their evidence after the landlord or agent has submitted theirs. The reason for this is that the initial burden of proof is on the landlord to state their claim against the tenant's deposit and to support that claim with evidence.

If you are a tenant responding to the landlord's claim, the first thing you should do is make sure that you have read and understood everything the landlord or agent has said. You then have the opportunity to respond to the points made by the landlord and submit your own evidence.

If the landlord or agent has set out the claim clearly, it may be a good idea to follow their format when responding. However, if you feel you can get your points across to the adjudicator in a better way, you can use your own format. Try to make sure you have covered all the points of the landlord's claim.

Step 2: Explain the claim/response to the claim

- **Explain why you think you are entitled to the amount claimed.**
- **Think about the questions that the adjudicator will be asking themselves at this stage:**
 - **what are the tenant's obligations?**
 - **what are the landlord's obligations?**
 - **did they comply with them?**

If you are the landlord or agent, make sure that the items you wish to claim for are covered by the tenant's obligations under the lease. For example, if you wish to claim for gardening, what does your lease say the tenant must do? Bring the relevant clause to the attention of the adjudicator.

In the same way, if you are a tenant, do not assume that the landlord has quoted accurately from the lease. Read it yourself and make sure you understand which parts of the lease are relevant to the claim.

Remember, the adjudicator is not able to deal with counterclaims or claims for set-off.

- In general terms, a set-off is where the tenant withholds some rent. 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. 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.

Step 3: Support your explanation with EVIDENCE

In many cases, the landlord and the tenant do not agree about the facts. The adjudicator will not usually take one person's word against another's if there is no supporting evidence.

Documentary evidence is usually essential to prove a case.

The adjudicator will not go looking for evidence:

- **don't say; evidence is available "on request" or "if required".**
- **it is the responsibility of the person who asks for the deposit to be paid to them to make sure that they provide all relevant evidence.**

Adjudicators work from the position that the deposit is the tenant's money until the landlord or the agent proves that they are entitled to the amount claimed. In this respect, the *burden of proof* is therefore on the landlord/agent (similarly, where a tenant puts forward a claim/argument, the burden will be on them to prove their point).

The *standard of proof* is the balance of probabilities. In other words, the adjudicator will decide whether it is more likely than not that the landlord/agent is entitled to claim. The landlord/agent will not have to prove their claim beyond reasonable doubt.

Some examples of evidence that you may want to send to the adjudicator:

➤ the tenancy agreement or lease	shows what the tenant and the landlord agreed to do
➤ the check-in report and/or inventory	shows the property's condition at the start of the tenancy
➤ the check-out report	shows the condition of the property at the end of the tenancy
➤ rent statement	shows what the tenant paid and what is owed
➤ bank statement	shows whether a payment was made or received
➤ estimates	shows the approximate cost of carrying out work/replacing things
➤ quotes	show the quoted cost of carrying out work/replacing things
➤ invoices	show the cost paid/to be paid for carrying out work/replacing things
➤ receipts	show the cost <u>and</u> show that the landlord or agent has paid

➤ correspondence	shows what the parties communicated about during the tenancy
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If your check-in or check-out reports contain hand-written comments or amendments, you should clearly identify who made them and when they were made. For example, *“the comments in red in the left hand margin were made by the tenant on 23 July 2012.”* If you refer to a colour, you will need to send in a colour copy, or use a highlighter pen to distinguish different sets of amendments.

Only send copies of correspondence if it will help the adjudicator to decide:

- what is being claimed for;
- how much is being claimed;
- why you think you are entitled to be paid;
- that the amount you are claiming for is justified and reasonable.

Top tips

The adjudicator **does not need** a detailed account of everything that happened during the tenancy. The adjudicator does not need to see all emails and texts that were exchanged during or after the tenancy. Large amounts of emails/correspondence obscure the relevant facts and bury the important evidence.

! Sending evidence that is not relevant could delay the processing of your dispute.

! Stick to the facts. The adjudicator will not usually take suspicions or opinions or unsupported allegations into account.

! Character evidence is not relevant. A tenant may have a criminal record, but still have looked after the property and paid the rent on time. A tenant may be a voluntary charity worker, but could still neglect or damage the property. Keep to the issues.

Make sure your evidence is **RELEVANT**: it's the quality – not the quantity – that matters

Evidence will usually be relevant if it:

- shows the condition of the property or contents at the start of the tenancy;
- shows the condition of the property or contents at the end of the tenancy;
- shows the amount of rent paid or received;
- shows the cost of cleaning, repair, redecoration, etc.

Evidence will not usually be relevant if it:

- simply duplicates something you have already submitted (e.g. several copies of the same email or agreement);

- can't be linked to the tenancy in question (for example a check-in or check-out report that is undated or does not give the property address);
- is about an aspect of the tenancy other than the deposit (for example references to aspects of the landlord's or tenant's character which have no bearing on the actual dispute);
- does not prove anything;
- merely states your views on the character, competence or conduct of your landlord, tenant or agent.

The adjudicator will not usually take into account evidence that is illegible – for example, pictures that are unclear.

- **Witness statements** are not usually required. However they can sometimes be useful if they are from someone impartial, for example a neighbour or the new tenant. Witness statements from friends and family are seldom useful as evidence.
- **Photographs or videos** can be helpful, but they need to be of reasonable quality. Photographs taken at the end of a tenancy are only helpful if there are comparable photographs taken at the beginning of the tenancy. It can be useful to have photographs in a check-in and check-out report, especially if both landlord and tenant have signed the check-in and check-out reports. However, the photographs do need to be clear, and a reasonable size. Blurred or photocopied images are not useful as evidence. Photographs should be clearly labelled with the date, time, the room in which they were taken, and briefly describe what the photograph aims to show. It is also helpful to number the photographs. For example: *"Photo No 4: 16 High Street, Glasgow. Bedroom 1. 15/06/2013. Stars stuck to ceiling."* If you send in video footage, you will need to explain how the video links to your claim. For example *"At 3 min 48 sec the video shows the door where the paintwork was scratched by the tenant's dog."*
- **Reports from contractors** can be useful, for example if there is a dispute over the cause of mould growth or the cause of a broken appliance. The report should be on the contractor's headed paper, be dated and refer to the property. The adjudicator will not automatically follow the contractor's opinion. For example: *"It looks like someone hit the washing machine – probably the tenant"* is much less convincing than a report from a suitably qualified contractor who can confirm that a fault was due to impact damage and not the result of wear and tear.

It is helpful to summarise the evidence submitted, giving a brief explanation of what the evidence is intended to prove. If your evidence is in a large document (such as a check-in report) or one of many photographs, you should give the page number of the document, or the number of the photograph.

Who will see the evidence you send us?

- **All documents you send to SafeDeposits will be made available for the parties to the dispute to see via our Online Evidence Portal.**
- **It is your responsibility to make sure that you do not send us evidence which you do not want the other parties to the dispute to see.**

Step 4: Quantify your claim

If you are a landlord or agent, you will need to show what loss/cost arose as a result of the tenant's failings.

Landlords do not have to have work done or buy replacements before they send their case to SafeDeposits. 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.

Just because you submit an estimate or invoice, it does not mean that you will be entitled to 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.

Top tip

A landlord is not entitled to claim new for old. The adjudicator will make an allowance in the tenant's favour for depreciation and fair wear and tear. The landlord will only be entitled to the amount that would put him or her into the position they would have been in if the tenant had complied with the tenancy agreement. They cannot deduct an amount from the deposit that would make them better off.

If the tenant is being asked to pay part of a bill, the landlord's or agent's submission should show how the bill has been apportioned. Here are some examples:

Example 1

Carpet cost £403 when new.

It was 5 years old but still in good condition at the start of the tenancy.

The tenancy was for 12 months.

The carpet should have lasted 10 years, but it was ruined at the end of the tenancy, so I have to replace it 4 years earlier.

The carpet will cost £500 to replace.

The claim is for $\frac{4}{10} \times £500 = £200$

Example 2

The oil tank was full at the start of the tenancy. It has a capacity of 1000 litres.

The oil tank contained approximately 200 litres at the end of the tenancy.

We had the heating on whilst cleaning and decorating the property, and used a further 30 litres before we ordered the tank to be filled. I claim 800 litres @ 64p/litre = £512.00

If rent is payable by reference to a monthly amount, and rent is due for part of a month, the adjudicator will apportion rent as follows:

Monthly amount x 12 months ÷ 365 days x number of days owed, rounded to 2 decimal places.

Example 3

The rent is £485 pcm. The tenant left owing 19 days' rent.

$(£485 \times 12) \div 365 \times 19 = £302.96$

The adjudicator's powers

The adjudicator only has power to make decisions about the deposit. The adjudicator cannot make rulings about the tenancy more generally.

The maximum the adjudicator can award is the amount of the deposit. If the amount in dispute is more than the deposit, the case can still be submitted for adjudication, but the landlord and the tenant may need to go to court to deal with anything that is not covered by the deposit.

Some common mistakes

- **Not providing 'before and after' evidence:** there is a written check-out report listing an item that is damaged – but no check-in report to tell the adjudicator whether the item was damaged at the start of the tenancy.
- **Not making allowances for an item's age or condition:** failing to make proper allowance for the age and condition an item was in at the start of the tenancy when working out how much to claim at the end of the tenancy.
- **Asking for trouble:** failing to warn tenants about exceptionally expensive items (e.g. plants, wooden kitchen worktops) and how to take care of them.
- **Acting in haste:** check-in inspection done before pre-tenancy clean has been completed; check-out report done after the property has been cleaned at tenancy end;

- **Leaving the adjudicator to work out the claim:** no coherent outline of the claim has been given – “*see enclosed estimates*” or “*see check-out report*” is not an adequate explanation of the claim.
- **Sending in too much “evidence”** – especially long exchanges of emails: the adjudicator **does not need** to know every detail of negotiations to date. The adjudicator **does not need** to know every detail of who said what to whom. The adjudicator **does need** to know what item is being claim for, how much is being claimed, why it is being claimed, and that the amount claimed is justified. If there have been protracted negotiations, it is all the more important to summarise the case and how things stand at the time of submitting the dispute. Although adjudicators read all the evidence submitted, the significance of a document may not be apparent if it is just one of hundreds that you send in.
- **Sending irrelevant evidence:** expecting the adjudicator to favour a tenant or a landlord because of their general behaviour. Evidence from a tenant that they have always paid their rent on time will not be taken into account when assessing whether the property was left clean at the end of the tenancy. Evidence from a landlord about the improvements they did during the tenancy will not entitle the landlord to claim new for old. Evidence from one party that the other was rude, obstructive, etc., will not usually be taken into account in deciding a deposit deduction.
- **Not providing any indication of the quality of missing or damaged items:** for example, a coffee table can be bought for a few pounds or can be very expensive indeed. The adjudicator does not know the value of the items in the property unless s/he is told – ideally with evidence such as receipts.
- **Making comparisons more difficult:** it can be very confusing if the check-in and check-out reports are prepared by different companies. When this happens the reports are difficult to compare because of different formats and different labels for the rooms e.g. “*bedroom 1*” in the check-in report could be referred to as “*front left bedroom*” on the check-out report, or the “*lounge*” becomes “*reception 2*”. Make sure that if possible the same company is used and that the language is consistent. Remember that it is for the landlord/agent to present a robust and coherent case for a deduction from the tenant’s money. The adjudicator is not familiar with the property – and although you may know which bedroom is which, the adjudicator will not!
- **Unreadable information:** some claims are hand written – which is fine if the writing is legible. Make sure that anything handwritten is neat, tidy and above all clear.

Section B: Examples of well-presented cases

1. An example of a well-presented case submitted by a landlord/agent

Details of dispute

Amount in dispute

£ 869.00

This is for:

Cleaning

£ 243.00

Damage to Property or Contents

£ 0.00

Redecoration

£ 250.00

Gardening

£ 0.00

Rent Arrears

£ 200.00

Other – please specify:

£ 176.00

If 'other', please state reason: Removal of rubbish and check-out fee.

Reasons for the dispute

Please state the reasons for the dispute. You must summarise the reasons here even if you attach other documents. Please continue on separate paper, if necessary.

Cleaning

Claim £243.00 in total. Clause 3.4 of the tenancy agreement sets out the tenant's cleaning obligations. Page 2 of the check-in report describes the property as having been professionally cleaned at the start of the tenancy. Pages 3, 4, 5, 7 and 12 of the check-out report show that the lounge, kitchen and bathroom were not left clean at the end of the tenancy. The cleaning bills are as follows:

1. Carpet cleaning: Claim £75.00. The tenant had a dog at the property and I only agreed to the dog on the condition that the carpets were cleaned at the end of the tenancy. The tenant did not clean the carpets at the end of the tenancy. Photograph No 21 shows a grubby mark on the carpet in front of the fireplace, which is where the dog used to sleep. I enclose an invoice from B&W Carpet Cleaners dated 11/7/2013 showing that it will cost £75.00 to have the carpet cleaned.

2. Oven cleaning: Claim £25.00. Page 7 of the check-in report shows that the oven was as new but page 7 of the check-out report shows a photo of the oven with burned on grease and cleaning residue. I cleaned the oven myself and I enclose a receipt for £5.00 cleaning materials. It took me over 2 hours to do, so I do not think it is unreasonable to charge £20.00 for my time.

3. General cleaning: Claim £143.00. See Cleanwell invoice dated 10/07/2013 for general cleaning as identified in the check-out report.

Redecoration

Claim £250.00 in total. Clause 3.8 of the tenancy agreement requires the tenant to keep the property in good decorative order. The tenant's dog scratched the paint on the inside of the kitchen door. There were luminous stars stuck to the ceiling in bedroom 2.

1. Kitchen door: Claim £150.00. The check-in report does not mention damage by the dog in the kitchen (see pages 11-12). Page 7 of the check-out report mentions the damage. I will do the painting myself, but I will have to make at least two or three trips to the property and buy the paint, turps, paintbrush etc., so I believe £150.00 to be reasonable.

2. Bedroom ceiling: Claim £100.00. Although the check-in report does not mention this specifically, the stars were not stuck on the ceiling at the start of the tenancy. It will cost £350.00 to put this right (see estimate from Paint It Right dated 14/7/2013). As the ceiling was decorated two years before this tenancy started, I want the tenant to contribute £100.00 towards the cost.

Rent: Claim £200.00. The rent is shown on page 1 of the tenancy agreement as £608.33 per month, payable monthly in advance. The tenant left owing rent for the period 14/6/2013 to 23/6/2013 as shown on the enclosed rent statement. I claim $£608.33 \times 12 \div 365 \times 10 = £200.00$.

Rubbish removal: Claim £80.00. Although the tenant removed rubbish from inside the property, this was left in bin bags in the garden. I had to pay to have it taken away (see invoice for rubbish removal dated 10/7/2013).

Top tips

- ✓ For each category of claim the claimant has stated how much is being claimed.
- ✓ The claimant also states why they believe they are entitled to claim, by reference to the relevant clauses in the tenancy agreement.
- ✓ The claimant outlines, briefly, how the tenant failed to comply with the tenancy agreement.
- ✓ In each case, the claimant refers to, and encloses, evidence to back up their claims.
- ✓ The claimant has only sent in evidence that is relevant, and has linked each item of evidence to the corresponding part of the claim.

***Remember, this is a guide to presenting a case:
not all of the landlord's agent's arguments are valid.***

2. An example of a well-presented case submitted by a tenant

Details of dispute

Amount in dispute

£ 869.00

This is for:

Cleaning

£ 243.00

Damage to Property or Contents

£ 0.00

Redecoration

£ 250.00

Gardening

£ 0.00

Rent Arrears

£ 200.00

Other – please specify:

£ 176.00

If 'other', please state reason: Removal of rubbish and check-out fee.

Reasons for the dispute

Please state the reasons for the dispute. You must summarise the reasons here even if you attach other documents. Please continue on separate paper, if necessary.

Cleaning: Claim £243.00 in total. Clause 3.4 of the tenancy agreement states that I had to clean the property to a good standard at the end of the tenancy. It does not say I have to pay for professional cleaning.

1. **Carpet cleaning:** The tenancy agreement does not say I have to clean the carpets. In any case, they were grubby at the start of the tenancy. The check-in report shows this on pages 8 and 9.

2. **Oven cleaning:** The oven was just as clean at the end of the tenancy as it was at the beginning.

3. **General cleaning:** The property was not professionally clean at the start of the tenancy. I enclose a copy of an email dated 5 June 2009 that I sent to the agent complaining about this when I moved in. I did not sign the check-in report because I did not believe it to be correct. I ran out of time when I was moving and I admit there was some cleaning left to do. I obtained an estimate from E Z Cleaning Company which shows they would charge just £50.00 for finishing the cleaning. The landlord's claim is therefore excessive. We cleaned the shower regularly and the landlord is exaggerating the problem. The house is in a hard water area and any accumulation is fair wear and tear. The property was empty for 10 days before the check-out inspection was carried out, so there is bound to be dust and cobwebs.

I agree to pay £50.00 because there may have been some oversights in cleaning, but I think a claim for £243.00 is unjustified.

Redecoration: The landlord has not taken account of fair wear and tear. I was living in this property for 6 years. The tenancy agreement (see clause 3.8) just says I have to keep the property in similar condition fair wear and tear excepted. Page 7 of the check-out report says that the kitchen door is scratched. Page 11 of the check-in report says that the kitchen door was scuffed. Scuffing and scratching are much the same thing so the door has not been damaged by me. The stars were already on the ceiling in the bedroom. I enclose a photo I took just after moving in, which shows they were there.

Rent: The tenancy ended on 15th June 2013 when I moved out. I accept that I need to pay rent for 14th and 15th, but I do not see why I should pay rent until the 23rd. It is not my fault that the agent could not carry out a check-out inspection until that date.

Rubbish removal: I cleared everything out of the house and put it in the bins, or alongside the bins for collection. I enclose a print-out from the council's website showing that the bin-men do not come till Thursday. I moved out on the Tuesday. If the landlord had waited till Thursday, the rubbish would have been cleared away by the council.

Top tips

- ✓ The tenant has dealt with each part of the claim in turn.
- ✓ Where the tenant relies on a clause in the tenancy agreement, they refer to the relevant clause.
- ✓ If the tenant disagrees with the interpretation of a clause, the tenant explains why.
- ✓ The tenant makes it clear whether s/he disputes liability – or whether s/he accepts liability but disputes the amount.
- ✓ Where the tenant thinks charges are unreasonable, they have provided relevant evidence to show what would be reasonable.

***Remember, this is a guide to presenting a case:
not all of the tenant's arguments are valid.***

Section C: An example of a badly-presented case submitted by a landlord

Details of dispute

Amount in dispute

£ 869.00

This is for:

Cleaning

£ 243.00

Damage to Property or Contents

£

Redecoration

£ 250.00

Gardening

£

Rent Arrears

£ 200.00

Other – please specify:

£ 176.00

If 'other', please state reason:

Reasons for the dispute

Please state the reasons for the dispute. You must summarise the reasons here even if you attach other documents. Please continue on separate paper, if necessary.

I knew we were going to have trouble with these tenants almost from day 1. I think they may have lied about their references and they have certainly lied about the state of the property.

The property was immaculate at handover and I was appalled to see the state they left it in. I enclose 43 (!) emails between me and the tenant about this. As the tenants have been so unreasonable I am absolutely determined not to let them away with anything now. I might have agreed a compromise early on, but there is no way now.

I think it's going to cost a fortune to get this property clean enough to relet. The tenants are lucky to be charged such a small amount. Honestly, the property was disgusting. The rent was always late and I continually had to phone the tenant to get them to pay. They haven't paid the check-out fee either and I don't see why they shouldn't pay this as it's in a leaflet we gave them 2 weeks before check-out.

The tenants had a dog and judging by the smell of the place they have had several dogs. I think they had the tenant's mother living with them some of the time as well, which is illegal. There are probably fleas in the carpet as well.

We did have problems during the tenancy with these tenants, but if we tried to tell them about anything they were extremely rude and aggressive. I think the police came round more than once and frankly I'm not surprised. These tenants should not get any of their deposit back because of all the trouble they have caused.

This is a beautiful property and we have never had a problem with it before. I am gutted that this has happened to us. I have done my best to reach a compromise, but there is no way we are going to agree to this one. I have told them there is therefore no alternative but to send it to arbitration.

Estimates are available for all charges if necessary. I enclose the photos taken on my phone at check-out, and I have since pointed out numerous other dilapidations which I am not claiming for because I am a reasonable landlord.

Top tips

- X** No breakdown of the claim has been given.
- X** It is not clear what is being claimed for.
- X** The statement does not refer to relevant clauses in the tenancy agreement.
- X** The statement is mostly opinion, not fact.
- X** There is no evidence of the state of the property at the start of the tenancy.
- X** Evidence of the condition of the property at the end of the tenancy is poor.
- X** Opinions about the tenants' character are not relevant.
- X** Suspicions unsupported by evidence are not relevant.
- X** Correspondence needs to be relevant if it is to be useful as evidence.
- X** No evidence of how charges have been calculated.
- X** No quotes, invoices or estimates enclosed to support the amounts claimed.
- X** There is no rent statement or calculation of arrears.

***Remember, this is a guide to presenting a case:
not all of the landlord's arguments are valid.***

In summary

- Remember that the deposit is first and foremost the tenant's money; this remains the case until 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. As a result, when the deposit is returned to the tenant in deposit disputes this is primarily because the landlord has not provided a strong enough case to keep it.
- The adjudicator must make a binding decision **on the basis of the information provided** by both tenant and landlord. This process is evidence based. The landlord must support their claim with evidence to show that the tenant has broken the tenancy agreement, and that the landlord has suffered, or is likely to suffer, a loss as a result.
- You only need to submit evidence where you consider it is directly relevant to the dispute. For example, evidence of unpaid utility bills is not required where the dispute concerns the cleanliness of the property at the end of the tenancy. Similarly, where the dispute is in reflection to damaged contents, photographic evidence is only needed if it shows the contents affected.
- An adjudicator will take into account any admissions of liability by the tenant; however evidence should still be provided to show how the tenant has broken the tenancy agreement, and the loss suffered as a result.
- Try to view the evidence you are submitting from the point of view of an independent third party who does not know the property. Will your evidence convince them of your case?

Other useful guidance available from SafeDeposits

SafeDeposits publishes a range of useful guides on how its adjudicators resolve tenancy deposit disputes.

These can be obtained from the SafeDeposits website at www.safedepositsscotland.com/landlord-information/guidance-documents.



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