Housing Rights

https://www.housingrights.org.uk/landlords/deposits/disputes-over-tenancy-deposits

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Disputes over tenancy deposits

This information is for private landlords of properties in Northern Ireland.

If you are a tenant, you can find advice here.

If you are a landlord or letting agent in Northern Ireland seeking advice, you can:

- send a message to Landlord Advice, or
- call 028 90 245 640 (Option 1)

You and your tenants may not always agree on how to deal with the deposit when the tenancy ends.

Following some basic principles can help to resolve disputes quickly.

Proposing deductions from deposits

The deposit belongs to your tenant and you must return it at the end of the tenancy.

You can only keep the deposit if you can prove that your tenant owes you money for:

- unpaid rent or arrears
- damage to the property
- missing or broken furnishings

Your tenancy agreement should state reasons why you might be able to keep some of the deposit.

Talk to your tenant about your reasons for wanting to keep some of the deposit. If you cannot agree, contact the deposit protection scheme.

Deposit schemes offer a dispute resolution service to help resolve disagreements.

If the deposit is not protected, your tenant might take you to court if you don't pay them back.

Deciding how much to deduct

Your deductions must be reasonable. You will have to show that you have suffered a financial loss. The deductions have to reflect the financial loss.

The deductions you propose should:

- use the most affordable solution, such as cleaning or repair, rather than replacement
- reflect the loss you've sustained rather than the full value of the item
- be fair and not leave you in a better position financially

For example, it may cost you £500 to buy a new washing machine. However, the tenant damaged a washing machine that you bought eight years ago. You might be able to claim the cost to repair this machine. Or, if it can't be repaired, you can claim the value of an eight-year-old machine. You cannot claim the value of a new washing machine.

You'll need to allow for reasonable wear and tear and will need to consider the:

- length of the tenancy
- number of occupants
- quality and condition of furnishings
- age and lifespan of items

For example, at the end of a 6-year tenancy, the carpet is lifting on some steps and is threadbare in places. It is a 10-year-old budget carpet and you were told it might last eight years.

You cannot charge the tenants for a replacement or repair of the carpet, as this is normal wear and tear.

TDS NI have helpful information on dealing with deposit disputes.

Disputes with tenants over deductions

If you cannot agree deposit deductions with your tenant, either of you can ask the scheme to decide. Each scheme has a free dispute resolution mechanism.

An adjudicator from the scheme will look at the evidence and decide how to refund the deposit. The starting point is that the deposit is the tenant's money. You need to prove that you have a right to keep some of it.

If you're not able to prove that you're owed money, the scheme will return the deposit to your tenant.

Evidence to support deposit deductions

You'll need to provide evidence to show that:

- your tenant has breached the tenancy terms and
- you are financially worse off as a result

Depending on the type of deductions you're making, your evidence should include:

- a copy of your tenancy agreement
- copies of bank, rent statements or utility bills
- correspondence between you and your tenant about the issue
- inventories from the start and end of the tenancy
- photos showing damage to the disputed item
- receipts to evidence the age or quality of an item
- written quotes from qualified tradespersons to fix the issue

Make sure you submit all relevant evidence as you won't be able to send further evidence at a later stage.

Going to court over a tenancy deposit

Your tenants may want to go to court if they think you've unfairly kept their deposit and:

- they paid the deposit before April 2013, or

- you didn’t protect the deposit, or
- you didn’t renew the deposit protection

You can go to court if the deposit does not cover all arrears or the full cost of repairing damage.

Small claims court can deal with a disputed deposit if the amount is up to £5,000. The court will expect you to provide evidence to show you have a right to keep the tenant’s money.

More advice

- How to end a tenancy
- Disputes over tenancy deposits