

Case Studies – How We Can Help

Taking over a Landlord/Tenant Deposit Dispute

Our Brief

We were approached by an existing client who managed a property herself on a let only basis. She had carried out an end of tenancy check, the tenant had left the property in a very poor condition and the client had no idea about how to go about;

1. Getting the deposit (£895) back to cover the damage
2. Sorting out the works required internally to allow re-marketing to start, given that the property had been freshly decorated, cleaned and grass cut before the tenant moved

Information we requested from the client (the reason for this will become clearer later on in the case study)

- A copy of the cleaning companies invoice showing that the property was professionally cleaned at the start of the tenancy
- A copy of the decorators invoice showing that the property had been redecorated throughout for the start of the tenancy
- A copy of the gardeners invoice showing that the garden had been maintained and was in good order at the start of the tenancy

Initial Action taken by ritehome

- We attended the property and carried out a full end of tenancy report, which amounted to a 25 page digital document with over 200 pictures, **we know from experience that a deposit dispute will be judged on the quality of the evidence submitted along with the end of tenancy report & inventory from the start of the tenancy, luckily for the client we had prepared the inventory at the start of the tenancy as well, which amounted to a 75 page digital document with over 400 pictures.**

- We instructed our contractors to attend and quote for the works required to bring the property brought back lettable condition for marketing (Cleaning, Decoration, Rubbish Removal, Joinery Works, Gardening)
- Cleaning £220.00
- Rubbish Removal £200.00
- Gardening £120.00
- Decoration £300.00
- Joinery - £50
- Total Cost of works required £890.00

After discussing the quotes with the Landlord, she agreed to pay the contractors invoices to speed up the process of re-marketing the property, as we had made her aware that a deposit dispute with the deposit scheme holding the tenants deposit could take up to 90 days to resolve and she certainly would not want to wait that long before being able to find a new tenant.

Action Taken by ritehome recover the Monies from the deposit/Time Line

- We registered the claim with the tenancy deposit scheme, breaking down all of the above costs that we were looking to recover from the tenants deposit on behalf of the landlord
- The deposit scheme now advised the tenant of the costs and the tenant had 30 working days to agree to the deductions or dispute them, it's worth noting that if the tenant does not respond to the deposit scheme within 30 working days then the deposit scheme will award in favour of the landlord
- On day 29 the tenant disputed our claim
- We now had 10 working days to upload our evidence (Quotes above, copy lease, copy inventory, copy end of tenancy report, copy invoices provided by the landlord from the start of the tenancy)
- These were uploaded the next day, however we had to wait for the 10 working day time frame to expire in line with the deposit scheme rules
- After the 10 days were up the tenant was given a copy of our evidence by the deposit scheme, they now had 10 working days to upload their own evidence
- 9 working days later the tenant uploaded their evidence, again the tenant had to wait for the 10 working day time frame to expire in line with the deposit scheme rules
- After the 10 days were up we were given a copy of the tenants evidence by the deposit scheme,
- At this point the deposit scheme rules state "you will have 5 working days to comment. This stage is not for providing further evidence: the landlord/agent is invited to provide comment only. The adjudicator will not consider any further evidence, even if a landlord/agent provides it, and will only take comments into consideration. The tenant will be able to see what comments have been provided, by logging into their online user account, but they will be unable to respond to them."
- We made no further comment within the 5 working days as we were happy with the evidence originally submitted

So far it has been a rather lengthy and admin heavy dispute and we were not even at the adjudication decision yet, our client made the right decision to have the work carried out without waiting, at this point we are 53 days into the dispute, so what happened next? Below is an extract from Safe Deposit Scotlands digest "How the adjudication process works"

What the parties need to know about the adjudicator's approach

The file of evidence will be passed to one of SafeDeposits' adjudicators, who will make an independent decision based on the information provided. The adjudicator has 20 working days to reach a decision. You should bear in mind the following points:

You will not be asked to meet with the adjudicator and the adjudicator will not contact the parties to ask questions or seek further information;

The adjudicator will not visit the property;

SafeDeposits can only award up to the value of the deposit or amount identified as being in dispute, although it is still advisable to let SafeDeposits know if the total value of the claim exceeds the deposit as this can still affect the final outcome;

The adjudicator can only deal with a landlord's/agent's claim against the deposit. The adjudicator will not look at complaints about the conduct of the parties, or any issues of set-off or counterclaim made by a tenant;

The adjudicator's starting point is that the deposit is the tenant's money and it is for the landlord to state their claim clearly and support it with evidence;

The adjudicator considers the evidence on the 'balance of probabilities';

Although an adjudicator may take into account one party's failure to respond to the dispute, SafeDeposits will not make an automatic award to one party based solely on the failure of the other party to respond. However, where one party fails to submit anything to support their position when they are invited for evidence, the disputed amount is likely to be awarded to the other party;

An adjudicator is not able to look again at any matters which have already been considered by a court.

The adjudication decision

Once the adjudicator has reached a decision, SafeDeposits will send a copy of it to the parties to the dispute. This is the adjudicator's initial decision and it will indicate the proposed award(s) and the reasons for the decision. No payments will be made at this point.

The parties will be asked whether they wish to request a review of the initial decision. This must be received within 10 working days and it is not possible for extensions of time to be granted.

It is not possible to request a review because you do not agree with the outcome of the decision, but you can make a request if you think that:

1. The adjudicator has made an error in law, which you will need to specify, and/or;
2. There is a factual error in the decision. Any factual error must be based on the evidence which was available to the adjudicator. The review process cannot be used to submit further evidence to strengthen a case.

A member of the adjudication management team will look at any review requests. We will let you know if we do not accept the request and we will give our reasons. If we are likely to accept a review request, we will let the other party know and offer them the opportunity to comment.

The case will then be passed to another adjudicator who will look at the evidence again. If the second adjudicator reaches a different decision, this will be the final decision. If the adjudicator decides that the first decision should stand, then the initial decision will become the final decision. It is not possible to ask for another review. Payment will be made to the parties within 5 working days of the issue of the final decision.

Final Outcome for our Client

After a lengthy deposit dispute process we successfully obtained £860 for our client, who was delighted, she had no idea of how complex such a situation could be if you did not know what you were doing.

Although not awarded the full amount of £890, there was a reason for this that everyone should be aware of; **allowance for depreciation**

- Cleaning £220.00 Awarded £220.00
- Rubbish Removal £200.00 Awarded £200.00
- Gardening £120.00 Awarded £120.00
- Decoration £300.00 Awarded £270.00, The tenant had been in situ for 12 months the adjudicator takes into account fair wear and tear (10%pa) which was applied to the decoration invoice
- Joinery - £50 Awarded £50