Smoke damage and redecorating

We offer an independent and impartial resolution service for landlords, agents and tenants who are unable to agree on how to distribute the deposit when the tenancy ends.

We look at a recent case and break it down. Our Head of Dispute Resolution, Suzy Hershman, helps you to understand our approach which in this case reviews redecorating due to smoke damage in a property.

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Deposit amount: £1,150

Amount in dispute: £888

What happened?

The tenant said:
- ⊘ They had not been smoking in the property and there was no smell or damage caused by smoking, so there was no need to redecorate
- ⊘ There had been some damage to the decor in the property but this was fair wear and tear

The agent responded:
- ⊘ The tenant was responsible for the cost of repairing the damage caused by smoking in the property
- ⊘ Cleaning alone was not enough to get rid of the smell of smoke left behind in the property so it needed to be redecorated

What evidence was provided?
- ⊘ Independent check-in and check-out reports, estimate, invoices and email correspondence between the agent and tenant

What was decided and why?	⊘ The email provided by the agent proved the tenant had been smoking in the property. As the tenancy agreement had clearly said that the tenant could not smoke in the property, the tenant was therefore responsible for costs to make good any damage caused by smoking
	⊘ The independent check-in report showed no record of smoke damage at the start of the tenancy. However, the independent check-out report did note the hallway, sitting room and bedroom as smelling of smoke and having stains on the walls at the end of the tenancy
	⊘ The check-out report only noted damage casued by smoking in specific areas of the property so the tenant was not responsible for for the full cost of redecorating the entire property
	⊘ An estimate from the contractor said that one coat of paint would be needed to remove the the smell and resolve the issue. No other evidence was provided to explain why the agent had chosen to fully redecorate
	⊘ The adjudicator found it reasonable to allow the agent to keep part of the costs incurred for redecoration on behalf of the landlord, but not the entire amount as the check-out report and estimate did not indicate the property needed to be completely redecorated

Decision: **Agent £275, Tenant £613**

How can you avoid this happening in future?

⊘ It is important to keep a record of correspondences between the agent, landlord and tenant. In this case, it was used to prove the tenant had been smoking in the property

⊘ Independent check-in and check-out reports can be a vital piece of evidence to help adjudicators decide if damage has been caused during a tenancy. The check-in showed no record of smoke damage at the beginning of the tenancy, but the check-out report noted smoke damage at the end of the tenancy

⊘ Always provide estimates and receipts of repair and work to remedy. These are used by the adjudicator to assess the cost of the work carried out and if the work is neccessary

⊘ Make sure any deductions are reasonable and reflective of the work needed. In this case, the contractor had indicated that one coat of paint would have been enough to resolve the issue, but the agent had chosen to redecorate the property completely. This could have been seen as betterment

Note: All ADR services recongise that dispute cases vary, therefore the outcome will depend on the interpretation of the evidence presented.