

ADJUDICATION CASE STUDY

Leak



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 a water leak.

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Deposit amount: £999.00

Amount in dispute: £999.00

What happened?

The tenant said:

- ✓ During the tenancy, there was a flood in the garage, damp inside and outside the garage, damp walls in the house and, in the latter part of the tenancy, a leak in the roof.
- ✓ The initial flood was at the beginning of the tenancy in 2014.
- ✓ After she reported the leak in the roof, the landlord sent his contractor to look at all the problems and said what had been done so far was only a temporary fix and to correct the leak properly would take some time.
- ✓ The continuing damp were reported at various times during the five year tenancy and continued until the landlord did carry out some repairs in the final few months of the tenancy.
- ✓ The landlord was claiming £1,380; 50% of the repair costs which was more than the deposit.

The agent responded:

- ✓ The landlord was aware of the damp problem which had been fixed before the tenant moved in, and it was only the marks on the walls that were left.
- ✓ The new leak was reported by the tenant and a contractor was sent to assess the situation but the reason the landlord is making a claim is because the tenant refused to allow access to the property a number of times over the years, so should be responsible in part.

What evidence was provided?

The tenancy agreement, inventory, schedule of damages, contractor photos, emails and quotes for garage repairs.

What was decided and why?

- ✔ Numerous emails refer to damp, leak and mildew in the property between 2014 and 2019 when the tenancy ended.
- ✔ It is clear from the response emails and time frame that there was substantial damage as a result of lack of attention in reasonable time.
- ✔ In one of the tenant's emails, in December 2018, there are comments to the agent that the roof remained unrepaired for over 4 years.
- ✔ While the dated inventory photos show the property in a fair condition, there was evidence of residual damp on the walls.
- ✔ Additional tenant photos, although undated, support the tenant's comments on the condition of the property with water damage, damp and mildew and the landlord/agent did not dispute this content.
- ✔ Considering the amount of emails sent by the tenant asking for the damp and leaks to be sorted and no evidence that the root cause of the problem was due to something the tenant did, or did not do, or that the tenant frustrated the repair process, the responsibility was solely on the landlord to carry out the repairs.

Decision: No award to the landlord

How can you avoid this happening in future?

- ✔ Landlords are responsible for looking after their property and making sure it is fit for purpose.
- ✔ Best practice is to deal with an issue and any repair at the time it happens.
- ✔ Tenants have a duty of care to look after the property and report any areas of concern, while they are living there.
- ✔ Tenants should be encouraged to report any problems, and allow access, as soon as possible so that it won't get any worse.
- ✔ Do not leave issues until the end of the tenancy when any damage may have increased and negotiation will be much more difficult.
- ✔ Make sure you employ reputable contractors who will write a report on the actual, or most likely, cause of the problem. This will be persuasive in any negotiation and valuable in the event of a formal dispute.
- ✔ Always remember fair wear and tear when negotiating and proposing any costs.

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

Authorised by:



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