



ECLIPSE  
INVENTORIES



# A Guide to Check-Outs & Deposit Returns

- LANDLORDS

## What is classed as damage at checkout?



Considered by many as the million-dollar question, and if only there were a nice tick box to tell us the answer, but due to properties being properties and tenancies being tenancies and them all being so vastly different this is never going to be possible. So, we have to garner what information we can and apply it in as a fair a way as possible based on the facts.



### Fair wear and tear

Wear and tear in a property is what a landlord can expect to see through the passage of time, so such things as:

- Shading to paint
- Rubs on walls
- Odd chips on woodwork
- Hinges becoming slightly loose
- Laminate or lino becoming somewhat worn
- Carpets becoming flattened & sometimes shaded with age
- Slight dulling to appliances
- Older items becoming more dilapidated with the passage of time and usage

...and so on.

Factors to consider:

- Length of the tenancy
- Age & Number of tenants
- Special clause – i.e. pets allowed
- Is it wear through use or damage through misuse
- Quality of item / accommodation at check in



The House of Lords defines fair wear and tear as follows:

“Reasonable use of the premises by the Tenant & the ordinary operation of natural forces”



# What is classed as damage at checkout?



## What is beyond 'fair'?

To clarify on what we consider beyond normal wear and tear would be things that go beyond the normal usage of a property during the passage of time, so where a tenant has knowingly or unknowingly caused damage to a property or its contents and so reducing its expected life expectancy through this misuse.



Examples of damage:

- Iron or hair straightener burns
- Nail varnish spills
- Holes in walls
- Gouges to surfaces
- Untreated spillage stains
- Forceful damage to fittings
- Permanent damage from lack of cleaning

The list is infinite really, but this should help clarify the pathway for what are considered damages.



## How to protect yourself

If you work with a good old-fashioned, stand-up Inventory company you will find they are guided by various bodies including the AIIIC and ARLA Property Mark to ensure they are working to set industry standards and their clerks are trained to operate and abide by these guidelines, therefore, protecting everybody's interest and making sure landlords can make claims where needed and tenants can dispute these claims if they are not correct.





# A Guide to Deposit Returns



## Deposits - An overview

Check Out time has come around again and whilst having to worry about finding a new tenant to avoid an empty property you also need to deal with the minefield area of deposit releases.

The last thing you want as a landlord is to be left out of pocket, so this guide is to help you step through the process and do everything you can to avoid being left unable to claim when you really need to.

We will run through, in brief, how to be successful with claims against deposits, what you can actually claim for and how to release the deposit.

In brief; once a tenant has requested for their deposit to be returned, you have 10 days to advise in writing what deductions you wish to make and to return in part or whole their deposit.



“Preparation for a deposit dispute starts at the beginning of a tenancy, not when it ends”  
Deposit Protection Service.



## How to be successful with claims from a deposit

There is 1 very important word that needs to be heeded: **evidence**. It’s all about evidence, the more you provide the more likely you are to win.

### What is classed as evidence?

- The tenancy agreement
- A professional, impartial inventory report, check in report and check out report
- Photographs and video evidence that is dated
- Copies of emails and letters between you and the tenant or agent; estimates, receipts, invoices, quotes for works etc.
- Evidence of the tenant receiving and signing off on the check in

If your evidence is not detailed and thorough, arbitration will award the monies to the tenants. **60%** of disputes are raised by tenants, so be prepared.

Before making claims, if you are not sure what is fair, call your inventory provider for support and guidance. If they won’t help guide you, you might be using the wrong company!

## A Guide to Deposit Returns



### How to release the deposit

The best way to get a quick resolution is to agree by email with your tenant what you want to deduct and what it is for. Then register it with the scheme.

You should have email confirmation of registering the deposit with your chosen scheme. You will need to login and register what you want to claim and what you want to release.

The scheme will then email the tenant this information and they will need to either agree or disagree. Once all agreed you will get an email advising of next steps - if the scheme has the money, you don't need to do anything as they will release the cash in to the relevant accounts.

Here are some useful links to guides from 'My Deposits' and The TDS. All have detailed information on how it all works.

[www.tenancydepositscheme.com/resources/files/The-progress-of-a-dispute.pdf](http://www.tenancydepositscheme.com/resources/files/The-progress-of-a-dispute.pdf)

[www.mydeposits.co.uk/wp-content/uploads/2016/03/mydeposits-rules-for-claimingguide.pdf](http://www.mydeposits.co.uk/wp-content/uploads/2016/03/mydeposits-rules-for-claimingguide.pdf)

In short, as long as you evidence everything, you will be successful. The moment you don't, you will not be able to claim when the worst happens.

Having a proper inventory and following scheme guidelines is a little like having insurance – you don't need it most of the time, but when things go wrong you will be so glad you paid for a professional inventory and kept records.



Without thorough clear evidence, any award on a deposit will go to the tenant. A landlord needs to provide proof that their claim is correct.



## A Guide to Deposit Returns



### Why you shouldn't accept the deposit as the last months rent

An age-old trick tried many times, by many tenants "Please Mr landlord just use my deposit for the last Month's rent". A good question though, and one many people may respond to with 'Well I don't see why not'.

However, on so many levels this is wrong and could leave a landlord immensely out of pocket.

So, what is the correct answer to this? Is this allowed? You may well ask and the long and short of it is no, this is not allowed and not what the deposit is for. The deposit is not for arrears, it is for damages, hence its name damage deposit.

If the tenant fails to pay you their last month's rent they are effectively in rental arrears. This would promptly be followed with the question; How on earth can you avoid this happening?

A good question to ask and, luckily, one we can answer for you on the next page of this guide where you will find our top 5 tips to avoid this issue.



If a landlord agrees to off-set the last month's rent from the deposit, there is no way to then go back and claim for damages later found, even through arbitration. Pursuit of the tenants would need to be through the courts or costs would simply have to be absorbed by the landlord.

## A Guide to Deposit Returns



### 5 Top Tips to avoid this happening...

#### 1. State it at the start of the tenancy

Make it explicit at the start that the deposit is for damages and not rental arrears.

#### 2. Refer to the tenancy agreement

If they do suggest this as a course of action advise them in writing of the clause in their AST that adds an interest rate to any late rent received.

#### 3. Remind them of future referencing

You could also remind them that if they are renting again, they may well need a reference from yourself and by going into rent arrears you would not be able to provide a good reference.

#### 4. Insufficient monies for damages - CCJ looming

If they do follow this path and at the end of the tenancy there are deductions to be made without sufficient monies left to cover these damages you will be requesting the additional monies direct from them. If this is then not paid you will pursue court action which could result in a CCJ.

#### 5. Tenant ID and Landlord Referencing Database

A final threat would be that you will add their name to the Tenant ID and Landlord Referencing Database which will make it very difficult for them to rent again.



With the above guiding hand and advisory slant to the tenants, they may think twice before using the deposit for any final rental payments. The easiest way to reduce the likelihood of this happening though is through clear communication with your tenants, at the start and throughout the tenancy, of your expectations of them and what is legally required of them as tenants.



We're here to help



## Get in touch

We hope that some of the advice above has helped you. Connect with us on Facebook and LinkedIn to receive updates of all our tips and tricks and property know-how.

For free ad hoc advice, even if you aren't an Eclipse client, we are always happy to help.

Please feel free to email us:

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or call our enquiries line on:

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