



Damages vs. Wear and Tear

by Patti "Widget", Regional Trainer

Your tenant has vacated the property and you now have 21 days to account for the security deposit. The law allows landlords to deduct portions of the security deposit to cover the cost of damages caused by a tenant. Landlords cannot deduct normal wear and tear, or the expected depreciation of a property. E.g. If carpeting has been destroyed and it is 8 years old, perhaps no allowance is appropriate as the floor coverings were due for replacement. Similarly, destruction of brand new carpet may result in full replacement cost to be deducted from the deposit.

Damage vs. Wear and Tear: What Can Be Deducted from Security Deposits? The law allows landlords to deduct portions of the security deposit to cover the cost of damages caused by a tenant. However, landlords cannot deduct to repair normal wear and tear, or the normal depreciation of a property.

Wear And Tear

Normal wear and tear is the physical deterioration that occurs with normal use. Wear and tear generally excludes occupants' or their guests' negligence, carelessness, accident with, or abuse of the premises, fixtures, or chattel property. Normal wear and tear is deterioration or depreciation in value by ordinary and reasonable use.

Other signs of everyday wear and tear are worn electrical switches, frayed pull strings on blinds, lightly scuffed hardwood floors, loose caulking, peeling wallpaper, faded curtains, and dirty window screens. Time and regular daily use can cause any of these items to become worn, which does not constitute damage.

Damages

When a tenant causes damage beyond normal use, a landlord has cause to charge the tenant for the damages. This may include damages inflicted by the tenants, their guests, or pets.

- Matted carpet or furniture impressions are wear and tear; burned or stained carpeting is damage.
- A few small nail holes are wear and tear; large holes in the walls constitute damage.
- Fading or yellowing of paint is wear and tear; large stains on the walls and ripped wallpaper are damage.
- If you have a leaky window that allows rain to blow in, have it repaired before it damages the woodwork around the window or the flooring.
- If you have a dripping kitchen pipe, have it repaired before it causes the wood under the sink to rot.
- If the wall behind a door is missing a doorstop, expect that the doorknob may punch a hole into the wall.
- Worn carpet and linoleum, Stained carpet and linoleum

- Cracks in walls caused by settling, Holes and dents in walls caused by accidents or carelessness
- Garbage disposal that stops working because motor dies, Garbage disposal that breaks because a fork jammed inside.
- Watering can left in yard, Trash pile in yard, outdoor furniture left on patio.
- Laminate top separated from countertop base, Burns and chips in laminate countertop

Reasonableness of Wear and Tear

- State law often defines the reasonableness of wear and tear, which often depends on the tenants' length of residency. For instance, if the tenants lived in the property for three years, it may be reasonable to expect to paint the walls and clean the carpets. If the tenants lived in the property for six years, it may be reasonable to expect to replace the carpeting. The property owner typically bears the costs for normal wear and tear maintenance.
- Many courts will allow you to prorate the useful life of a damaged item. If the court believes that the useful life of carpeting in a rental dwelling is five years, then the cost of replacing the carpeting would have to be prorated over a five-year period. You cannot charge the former tenant the full replacement amount if items are past or well into their life expectancy.
- Keep in mind that the security deposit belongs to the tenants, and you act as an escrow agent to hold and care for the tenants' deposit. However, the funds may revert to you at the end of the tenancy if you make a successful claim against the deposit (in compliance with local and state laws) or the tenants have otherwise forfeited the deposit through violation.
- Common Sense should guide you through the decision of what portion, in any, of the security deposit is to be refunded. Just remember to keep good records and receipts. The ultimate determination of the deposit may be decided by a judge in court.

***About the Author:** Patti "Widget" is the marketing director for Fast Evict.com Law Group. She has 22 years' experience as a regional property manager. Patti teaches several training classes, and has published articles for various apartment associations.*