

Marie Hansen Properties Newsletter

A Quarterly Publication for Our Clients

THE SECURITY DEPOSIT VS. NORMAL WEAR & TEAR

Summer 2008

If you have 100 property managers in a meeting, the majority will agree that settling a security deposits dispute is one of the more difficult tasks in property management, particularly when it comes to determining "normal wear and tear", also referred to by some as "ordinary wear and tear".

Why does this become such a difficult problem? It is because there is NO clear-cut definition for this phrase in legislation. It becomes very subjective, depending on the party or parties involved. You will get different viewpoints from a property owner, a property manager, a judge, an attorney, a vendor, and mostly likely, an opposing view from the tenant. Tenants are prone to use this term, particularly in court, to defend any type of damage, large or small. The burden of proof usually falls to the landlord to show that the damage is not "normal wear and tear".

The laws that govern the security deposit vary from state to state, but the term "normal wear and tear" generally describes the allowable amount of use of a rental without the tenant being

financially responsible for repairs or maintenance. A certain amount of "normal" use of the rental unit will result in an anticipated and reasonable amount of wear that will result in the need for repair, replacement, or other maintenance work.

The law generally will rule the tenant should not be responsible for these costs because it is normal maintenance and the cost of being a landlord. However, neither the courts nor the legislators have defined exactly what "percentage" of this maintenance is the owner's responsibility or that of the tenant.

How do you determine what to do about a "normal wear and tear" issue in a security deposit? It is not easy, but there are definite steps to avoid or reduce the problem.

- Put the property in good condition before the tenant moves in. Document the condition in writing and pictures before any move in, and then have the tenant agree and sign to the condition of the property.

- Be realistic about the condition of the property. Is the carpet new, in good condition, or is it just serviceable for this tenant? Plan to accept what items will not stand up to tenant charges when they move out, such as a frayed or worn carpet.

- When the tenant moves, consider how long the tenant has been there.

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New Property Manager!

We are very happy to announce a new addition to our Marie Hansen Properties team. Drudi Johnston is a highly professional property manager. She comes to us with 20 years extensive experience as being a dedicated property manager. We are so happy to have her on board!

New Website:

If you haven't already visited our website, please do so at: www.mariehansenproperties.net We will place all available rentals on the website so prospective tenants have the opportunity to take a glimpse of the properties online at any time, day or night.

New E-Mails: Please be sure to note the changes in our e-mail addresses

PROMAS: Accounting software: August will be the first month using our new accounting software. Please bear with us over the next few months as we make this transition.

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There is a big difference between a six months and five-year tenancy. Then, if necessary, figure out a percentage for the maintenance item in question that is fair to both tenant and owner.

- Identify the problems that are actual "damage". Normal wear and tear does not apply to *filth* - heavy soil, black marks, dye stains, bleach stains, etc. It does not apply to *negligence*, such as allowing mildew to collect on walls or not reporting a toilet leak that caused damage. It does not apply to *abuse*, such as ripped linoleum from a refrigerator installation, punching a whole in the wall, or stained window coverings.

- Use common sense – is it really worth a court battle to fight over carpet cleaning when a tenant has been in the property 3 years?

As your property management company, we know that it is much less expensive to settle a dispute than go to court with a shaky defense on "normal wear and tear".