Alternative Dispute Resolution (ADR)

Tenant Guide

This guide explains the my|deposits Scotland ADR service to you, the Tenant, and is to be read in conjunction with the my|deposits Scotland Conditions of Deposit Disputes.

At the end of the tenancy you might feel that your Landlord/Agent has unfairly withheld all or part of the deposit. If this happens you are entitled to raise a dispute with my|deposits Scotland.

This guide explains the my|deposits Scotland ADR service including:

• What is ADR?
• Steps to avoid a dispute
• Options to resolve the dispute
• Preparing your evidence

This guide is for your assistance and cannot be relied upon as legal advice. Our website, www.mydepositsscotland.co.uk also provides further assistance.

Alternatively, you may wish to take legal advice.
What is ADR?

ADR is an alternative method of resolving disputes to the traditional option of going to Court. my|deposits Scotland provides a ADR service and actively encourages its use as a method of Deposit Dispute resolution. You must agree to its use. The process is completely evidence based. The parties will be given an opportunity to present their case and evidence to a qualified Adjudicator. Your Landlord/Agent will set out their claim and provide evidence to justify deductions to the deposit. You will be given the opportunity to rebut this evidence and submit your own. The Adjudicator will analyse the evidence submitted and make a binding decision as to how the deposit should be distributed. There is no obligation on you to use ADR but it is available at no cost and is designed to allow easy and quicker access to a resolution of the Deposit Dispute than going to Court.

Avoiding Disputes

my|deposits Scotland have found that most disputes are resolved simply by the Agent or Landlord and Tenant talking through the issues. We recommend in the first instance you:

Remind yourself of your obligations under the Tenancy Agreement
Please ensure you are aware of your Landlord’s expectations of the cleanliness of the property before the end of the tenancy.

Wherever possible, ensure you attend the ‘check-out’ process
The purpose of the check-out is to compare the property’s condition at the end of the tenancy against the condition at the start of the tenancy agreement. Ensure that your comments are noted, should there be any conflict during this process.

Deductions to the deposit
Your Landlord or Agent should provide you with a breakdown of any deductions they intend to make to the deposit as soon as reasonably practical. Also, if possible your Landlord should also provide you with evidence of the amounts they intend to deduct. We recommend that you allow them a reasonable time to provide this information and be open to negotiation with your Landlord if it will prevent a Deposit Dispute.

Resolving the Dispute

If you have not reached an agreement with your Landlord after following these steps, you can contact my|deposits Scotland to raise a formal dispute. You have two options to resolve the dispute, either using my|deposits Scotland ADR service or using the Courts.
Timeline

This timeline highlights key dates and processes that apply for the my|deposits Scotland ADR process.

**Step 1** Tenant notifies my|deposits Scotland of dispute

If you do not agree with the deductions the Landlord/Agent wishes to make to the deposit you will need to decline the user's release request in order to begin the process of raising a Deposit Dispute.

**Step 2** User Evidence

We will send the User a notification of the Deposit Dispute and they will have 14 Days to supply their evidence.

**Step 3** Submitting your evidence

Following the 14 Days stated in step 2, you will be provided with the User’s claim and evidence.

You will have 14 Days to submit your counter evidence.

**Step 4** User Comment

The user will have a further 7 Calendar Days to provide any comments on the evidence submitted by you. They will not be able to submit any further evidence at this point.
Step 5  Evidence passed to Adjudicator

All the submitted evidence and the User’s final comments are passed to the Adjudicator to make a decision within 20 Working Days.

Step 6  Decision made

Once the Adjudicator has made a decision, my deposits Scotland will notify both parties of the decision, within 5 Working Days.

Step 7  Accept Decision/Review Request

Either Party may apply to us within 10 Working Days for a review, but, may only do so on the grounds that the adjudicator has erred in fact or in law, or both.

Step 8  No Review Request Made/Review Request

No Review Request: If no review request is received from either party within the 10 Working Days, we will release the monies in accordance with the decision within 5 Working Days.

Review Request Received: On receipt of a review request we will invite written representation from the other party. The written representation must be returned within 3 Working Days of being requested.

On receipt of the written representation, the Scheme will decide whether to accept or reject the application for review.
Step 9  Accept/Reject Review Request

Review Request Rejected: Where an application for review is rejected by us, the party may not make a further application.

The Scheme will pay the awarded amounts within 5 Working Days, once the 10 Working Days for both parties to make a review request expires or the other party has accepted the decision.

Review Request Accepted: Where an application is accepted by us, we will refer the adjudication decision for a review. The review adjudicator will make a decision within 10 Working Days.

Step 10  Evidence passed to review Adjudicator

All the original submitted evidence and the User’s original final comments are passed to the review Adjudicator to make a final decision within 10 Working Days.

Step 11  Review Decision made

Once the review adjudicator has made a decision, my|deposits Scotland will notify both parties of the decision and send any payment in accordance with that decision within 5 Working Days.

The decision of the review adjudicator is final.

Using the Courts

You may wish to resolve the dispute through the Courts rather than my|deposits Scotland ADR. If so, we will not be involved in the matter and will send the disputed monies to you, pending resolution through the Courts.
Preparing your ADR Evidence

The mydeposits Scotland ADR service is evidence based; the higher the quality of the evidence that you supply, the more it will assist your case.

You must submit the signed tenancy agreement and everything connected to this agreement.

Some examples of other evidence you may wish to submit include:

1. Check in / check out reports (signed and dated)
2. Inventory
3. Schedule of condition
4. Photos / video (dated)
5. Invoices / receipts to prove work has been done – cleaning, dry cleaning, gardening etc.
6. Written correspondence

You should ensure that all your evidence is relevant to the case. Please ensure that any written submissions are clear, easy to understand and properly presented. The Adjudicator will analyse all evidence and submissions but may not refer to every piece of evidence submitted in the Adjudication Report. You must pay the cost of preparing and submitting your evidence to us. We reserve the right only to return original documentation to you upon prior agreement and at your written request. If we do not receive any instruction at the time of receiving your evidence, we reserve the right to destroy it. If we do agree to return your evidence you may be charged an administration fee to cover our postage and packaging costs.

Reasons we may reject a dispute

The Deposit Dispute relates to matters other than the return of the Protected Deposit;

A party has already commenced Court proceedings on any matter related to the tenancy, unless they have been withdrawn or are stayed for mediation purposes or the court has subsequently directed that the matter be dealt with by ADR;

There are allegations of fraud, criminal activities, duress or harassment by either party which we deem outside our remit;

There is clear evidence of rent arrears or we consider the Deposit Dispute is being raised frivolously or unreasonably by you.

FAQs and Further information

Please see our website for a range of guides and support on dispute resolution and insight into specific issues www.mydepositsscotland.co.uk
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