

THE SECURITY DEPOSIT VS. NORMAL WEAR & TEAR

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

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**Maximize Profits,
Minimize Headaches**



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been there. 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.

Office Hours
Monday - Friday: 8:30 am - 5:30 pm
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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 - it is 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".



Investor Tips for Strategizing Your Real Estate Portfolio

As an investor, whether you are a newbie or seasoned pro is to know "you can do this"! It is important however to maximize your success with some important tools of the trade in order to reach your real estate potential in wealth and knowledge.

First, give yourself a 3 year time frame for profit gain. During this time frame try the following:

- Create a marketing plan
•Control spending; stick to a budget
•Monitor and direct your financial progress
•Effectively communicate

Let's face it. Right now the national market is struggling. However, in Charlotte, it is prime time to be a buyer! Looking for that "great deal"? Try the following:

- Find an owner who will finance with no \$ down if you pay 100% of the value of the property
•Your skills matter! If you are not handy with a hammer then looking at properties with needed repairs isn't the best use of your time and money because you will end up paying for the repairs. Hence stay away from multi-family units.
•Find something that you can get for 70% or less of the as-is value by offering cash. Good ways of finding "good" deals? Try direct mail, ad in the paper, MLS. Be creative and market to the real estate attorneys.

Lastly find a partner to split cost and profit. It can be 50/50 or whatever you decide between the two of you. The profit may not be as great but the costs can be split as well as the duties. We don't recommend having more than 2 in the partnership. This could result in too many decisions and not enough time. Remember "time is money". Good luck and happy investing!

If you would like more information or receive listings from our MLS with properties that fit your criteria please call 704-544-0253 or email: sales@HendersonProperties.com