

Avoiding Betterment & Considering Apportionment

The landlord should not end up, either financially or materially, in a better position than he was at commencement of the tenancy, or than he would have been at the end of the tenancy having allowed for fair wear and tear.

To avoid betterment, the allocation or apportionment of any costs, charges or compensation for damage must take into account all the factors relating to

(a) fair wear and tear,

(b) the most appropriate remedy and,

(c) that the landlord should not end up either financially or materially in a better position than he was at commencement of the tenancy or as he would expect to be at the end of the tenancy having considered (a) and exercised (b).

The principles of some very general examples might include

1. A small to medium stain or mark on a carpet or mattress - perhaps £15 - £35 e.g. the cost of a "spot" clean or, this amount as the tenants' contribution to a full clean of the whole item, or as compensation for the diminution. A small to medium size chip or mark, scratch or burn on a kitchen worktop - perhaps £5 - £25. A landlord could of course decide to have a new carpet put down or a new kitchen worktop installed if they wished, but, they cannot lawfully charge the tenant for that full cost. The costs should be apportioned and shared between landlord and tenant on the principles given above. E.g. Cost of new carpet £500 - apportioned £465 to landlord, £35 to tenant.

2. In the rare circumstances where damage (to the worktop/carpet/mattress) is so extensive or severe to the item so as to affect the achievable rent level/lettability or quality of the property the most appropriate remedy might be to apportion costs according to the age and useful lifespan of the item. An example of how this might be calculated is as follows:-

(a)	Cost of similar replacement carpet	£500-00	(a)
(b)	Actual age of existing carpet	2 years	(b)
(c)	Average useful lifespan of that type of carpet	10 years	(c)
(d)	Residual lifespan of carpet calculated as (c) less (b) =	8 years	(d)
(e)	Depreciation of value rate of carpet calculated as (a) divided by (c) =	£50 per year	(e)
(f)	Reasonable apportionment cost to tenant calculated as (d) times (e) =	£400-00	(f)

This method of calculation could, (with a minor downwards adjustment to (c) to take account of the existence of more than average use of the carpet/item e.g. its useful lifespan had already been shortened prior to the tenancy in question.), be used to apportion costs of a carpet/item which had already or previously suffered excessive deterioration.