



Who should read this?

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| Tenants | Agents | Landlords |

Insured / Custodial

Tread carefully

Adjudication Digest January 2020

The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind the decision. The aim of these Digest reports is to help tenants, landlords and agents better understand how we make our adjudication decisions. The names of the landlords and tenants involved have been removed and this is only a brief summary of the dispute.

Amount of deposit in dispute: £1,750.00

Dispute initiated by: Landlord

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|--------------------|-----------------|
| Award made: | £1750.00 |
| Tenant | £1750.00 |
| Landlord | £0.00 |
| Agent | £0.00 |

In this month's case the landlord claimed £1,750.00 for the cost of carpeting wooden floors in the property. The claim arose because of complaints from neighbours about noise caused by the tenant's young son running across wooden floors in the property.

The landlord had provided during the tenancy some runners and rugs; however, this did not reduce the noise sufficiently and further complaints followed, leading to the issue by the superior landlord of a notice under Section 146 of the Law of Property Act 1925.

This notice directed the landlords to carpet the wooden floors in accordance with a covenant contained in the lease requiring them 'to keep the flat and the passages thereof substantially covered with carpets except that in the kitchen and bathroom all-over cork or rubber covering or other suitable material for avoiding transmission of noise may be used instead of carpet.'

As part of their claim the landlords argued that they had only had to incur these costs because of the tenants' behaviour. The landlords also argued that there were other flats in the property that did not have wooden floors. The tenants argued that they should not be obliged to pay for something that the landlord was obliged to do in any event.

The adjudicator found that the obligation in the lease was clearly placed on the landlords to use the right floor coverings. There was nothing in the tenancy agreement which allowed the cost of compliance with these obligations to be passed on to the tenants.

So what are the key points here?

- Landlords who are subject to superior leases should check to see whether any clauses in the superior lease will affect them letting out their property.
- A landlord is not able to transfer a statutory legal obligation on to tenants.