



Wear and Tear vs. Damages

This document is meant to provide a general overview of the difference between wear and tear vs damage when doing a security deposit return.

Security deposits can be used to repair damage for which a resident is responsible. However, the landlord cannot apply the security deposit to normal wear and tear. The question is: "What's the difference?"

NORMAL WEAR AND TEAR DEFINED

The legal definition of "normal wear and tear" as stated in the Texas Property Code Chapter 92.001:

"Normal wear and tear" means deterioration that results from the intended use of a dwelling... breakage or malfunction due to age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident, or abuse of the premises, equipment, or chattels by the tenant, by a member of the tenant's household, or by a guest or invitee of the tenant.

Damage can therefore be defined as deterioration which occurs due to negligence, carelessness, accident, or abuse of the premises or equipment or chattels by the tenant or member of his household, or their invitees or guests.

Notice that normal wear and tear does not include dirt – excessive dirt is considered negligence, carelessness, accident, or abuse.

The following is a list of examples and is intended as a guide to reasonable interpretation of the differences between expected 'wear and tear' from normal residential use and irresponsible, intentional, or unintentional actions that cause damage to a landlord's property.

Courts have also ruled that the length of time a tenant has occupied a property must also be taken into consideration when assessing damages in relation to deductions to a tenants security deposit. The longer a resident has resided in a property, the more allowance must be given for 'wear and tear' over damage.

Wear and Tear	Damages
Small nail holes caused by a 6 penny nail or smaller. A 6 penny nail is 2 inches long and is used for hanging picture frames and other items on walls.	Large holes from hanging shelving, pictures, screws, wall anchors, flat screen television brackets or any other wall hanging that causes damage larger than a 6 penny nail
Faded paint	Spot painting and patching or touch up painting of any kind

Faded caulking around the bathtub and tiles	Missing caulking around the bathtub and tiles
Hard water deposits	Buildup of dirt, mold, mildew, or water stains from a preventable or unreported water leak or drip
Worn out keys	Broken, lost or unreturned keys
Loose or stubborn door lock	Broken or missing locks
Loose hinges or handles on doors	Damage from a door from forced entry, or damage from using feet to open doors
Worn carpet traffic patterns	Torn, burned, stained, missing, ripped, scratched, or snagged carpet, pet damage
Faded finish on wood floors	Scratched, gouged, warped or water damaged wood floors
Linoleum worn thin	Linoleum with tears, chips or holes
Worn countertops due to daily use	Burned, cut, stained, scratched or water damaged countertops
Drywall cracks from settling	Holes in walls, doors, screens or windows from misuse, negligence, carelessness, accident, or abuse
Faded, chipped or cracked paint	Unapproved or poor tenant paint job
Loose wallpaper	Ripped or marked-up wallpaper
Worn or heat blistered mini-blinds	Broken, bent, cracked or missing slats, wands or hardware. Broken strings.
Dirty window and door screens	Torn or missing screens
Sticky window	Broken window
Loose or inoperable faucet handle	Broken or missing faucet handle
Running toilet	Broken toilet seat, tank top or chipped or cracked toilet bowl
Musty odor	Urine or pet odor throughout unit
Closet bi-fold door off track	Damaged or missing bi-fold door
Non-functioning smoke or CO detector	Missing or detached smoke detector or CO detector or missing batteries
Non-functioning light fixture	Missing, burnt out, or incorrect style light bulbs
Dry lawn	Lawn with pet urine spots, dead areas, excessive weeds
Slow draining drains	Drains that are clogged by hair, toys, or other non-flushable objects

For more information or help, contact Emerson Property Management at 832-802-0848 or visit www.EmersonPropertyManagement.com