

# **Wear and Tear vs. Damages**

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 Title 8. Landlord and Tenant, Chapter 92. Residential Tenancies, Subchapter A. General Provisions:

"Normal wear and tear" means deterioration that results from the intended use of a dwelling, including, for the purposes of Subchapters B and D, 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 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 incomplete list of examples is intended as a guide to a 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 accessing damages; therefore, deductions to a tenant's security deposit. The longer a resident has resided in a property, the more allowance must be given for ‘wear and tear’ over the damage.

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| **Wear and Tear** | **Damages** |
| 1. 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 cause damage larger than a 6 penny nail |
| 1. Faded paint | Spot painting and patching or touch up painting of any kind |
| 1. Faded caulking around the bathtub and tiles | Missing caulking around the bathtub and tiles |
| 1. Hard water deposits. | The buildup of dirt, mold, mildew, or water stains from a preventable or unreported water leak or drip |
| 1. Worn out keys | Broken, lost or unreturned keys |
| 1. Loose or stubborn door lock | Broken or missing locks |
| 1. Loose hinges or handles on doors | Damage from a door from forced entry, or damage from using feet to open doors |
| 1. Worn carpet traffic patterns | Torn, burned, stained, missing, ripped, scratched, or snagged carpet, pet damage |
| 1. The faded finish on wood floors | Scratched, gouged, warped or water damaged wood floors |
| 1. Linoleum has worn thin | Linoleum with tears, chips or holes |
| 1. Worn countertops due to daily use | Burned, cut, stained, scratched or water damaged countertops |
| 1. Drywall cracks from settling | Holes in walls, doors, screens or windows from misuse, negligence, carelessness, accident, or abuse |
| 1. Faded, chipped or cracked paint | The unapproved or poor tenant paint job |
| 1. Loose wallpaper | Ripped or marked-up wallpaper |
| 1. Worn or heat blistered mini-blinds | Broken, bent, cracked, or missing slats, wands or hardware. Broken strings. |
| 1. Dirty window and door screens | Torn or missing screens |
| 1. Sticky window | Broken window |
| 1. The loose or inoperable faucet handle | The broken or missing faucet handle |
| 1. Running toilet | Broken toilet seat, tank top or chipped or cracked toilet bowl |
| 1. Musty odor | Urine or pet odor throughout the unit |
| 1. Closet bi-fold door off track | Damaged or missing bi-fold door |
| 1. Non-functioning smoke or CO detector | A missing or detached smoke detector or CO detector or missing batteries |
| 1. Non-functioning light fixture | Missing, burnt out, or incorrect style light bulbs |
| 1. Dry lawn | Lawn with pet urine spots, dead areas,  excessive weeds |
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| 1. Slow draining drains | Drains that are clogged by hair, toys, or other non-flushable objects |