

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" is 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 assessing 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.

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
2. Faded paint	Spot painting and patching or touch up painting of any kind
3. Faded caulking around the bathtub and tiles	Missing caulking around the bathtub and tiles
4. Hard water deposits.	The buildup of dirt, mold, mildew, or water stains from a preventable or unreported water leak or drip
5. Worn out keys	Broken, lost, or unreturned keys
6. Loose or stubborn door lock	Broken or missing locks
7. Loose hinges or handles on doors	Damage from a door from forced entry, or damage from using feet to open doors
8. Worn carpet traffic patterns	Torn, burned, stained, missing, ripped, scratched, or snagged carpet, pet damage
9. The faded finish on wood floors	Scratched, gouged, warped, or water damaged wood floors
10. Linoleum has worn thin	Linoleum with tears, chips, or holes
11. Worn countertops due to daily use	Burned, cut, stained, scratched, or water damaged countertops
12. Drywall cracks from settling	Holes in walls, doors, screens, or windows from misuse, negligence, carelessness, accident, or abuse
13. Faded, chipped, or cracked paint	The unapproved or poor tenant paint job
14. Loose wallpaper	Ripped or marked-up wallpaper

15. Worn or heat blistered mini-blinds	Broken, bent, cracked, or missing slats, wands, or hardware. Broken strings.
16. Dirty window and door screens	Torn or missing screens
17. Sticky window	Broken window
18. The loose or inoperable faucet handle	The broken or missing faucet handle
19. Running toilet	Broken toilet seat, tank top, or chipped or cracked toilet bowl
20. Musty odor	Urine or pet odor throughout the unit
21. Closet bi-fold door off track	Damaged or missing bi-fold door
22. Non-functioning smoke or CO detector	A missing or detached smoke detector or CO detector or missing batteries
23. Non-functioning light fixture	Missing, burnt out, or incorrect style light bulbs
24. Dry lawn	Lawn with pet urine spots, dead areas, excessive weeds
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27. Slow draining drains	Drains that are clogged by hair, toys, or other non-flushable objects