



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/CV/25/4937**

**Re: Property at Ground Floor Left, 59 Erskine Street, Aberdeen, AB24 3NR (“the Property”)**

**Parties:**

**Dr Sana Lodhi, Flat 1/1, 391 Shields Road, Glasgow, G41 1NW (“the Applicant”)**

**GK PROPERTIES (ABERDEEN) LIMITED, 22 Weaver Terrace, Aberdeen, AB24 4SD (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £405.34 should be granted in favour of the Applicant.**

**Background**

1. An application was received from the Applicant on 15 November 2025 seeking a payment order in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment of £550 in respect of her alleged tenancy deposit which had not been returned to her by the Respondent.
2. Attached to the application form were:
  - (i) Copy private residential tenancy agreement between the parties, which commenced on 6 August 2025.

- (ii) WhatsApp message dated 9 October 2025 from the Applicant's husband to Mr Jayraj Kumar, giving notice on her behalf with regard to the tenancy.
  - (iii) WhatsApp message dated 27 October 2025 from the Applicant to Mr Jayraj Kumar, notifying him that she had moved out of the property and left the keys there, together with photographs of the property.
  - (iv) Bank remittance advice showing two payments of £200 and £900 by the Applicant to Mr Gautam Kumar, on 5 and 6 October 2025 respectively, both citing the reference "rent and deposit".
  - (v) Various email and WhatsApp correspondence between the Applicant and Mr Jayraj Kumar and between the Applicant and Mr Gautam Kumar.
3. The application was accepted on 21 November 2025.
  4. An application had also been received from the Applicant on 8 November 2025 seeking a payment order under Rule 103 of the 2017 rules against the Respondent, in respect of the alleged failure to lodge her tenancy deposit with an approved tenancy deposit scheme. The two applications were conjoined and heard together by the tribunal.
  5. Notice of the case management discussion (CMD) scheduled for 5 May 2026, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the tribunal on 18 March 2026. The Respondent was invited to submit written representations by 8 April 2026.
  6. A submission citing the case reference was received by email from Mr Jayraj Kumar, stating that he was "Attorney for and on behalf of G.K. Properties Aberdeen Ltd", on 7 April 2026. Mr Kumar was notified by the tribunal administration on 24 April 2026 that, as he was not a named party on the case, the submission had not been processed. He was further notified that if he wished to be added to the case as a party's representative, he should provide a mandate signed by them to confirm this. Nothing further was received from him.
  7. No written representations were received from the Respondent prior to the CMD.

### **The case management discussion**

8. A CMD was held by remote teleconference call on 5 May 2026 to consider both the present application and the accompanying rule 103 application (reference no: FTS/HPC/PR/25/4834). The Applicant was present on the teleconference call and represented herself.
9. The Respondent was not present or represented on the teleconference call.

The tribunal delayed the start of the hearing by 10 minutes, in case the Respondent had been detained. The Respondent did not join the teleconference call, however, and no telephone calls, messages or emails had been received from it.

10. The tribunal was satisfied that the requirements of rule 24 of the 2017 rules regarding the giving of reasonable notice of the date and time of a hearing had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

### **Preliminary issue**

11. The tribunal noted that an email had been received from Mr Jayraj Kumar on 7 April 2026. The tribunal had only become aware of this email immediately before the CMD. It had not been sent to the tribunal or to the Applicant because Mr Kumar was not a named party on the case. He had been notified that if he wished to be added to the case as a party's representative, he should provide a mandate signed by them to confirm this. Nothing further had been received from Mr Kumar.
12. The Tribunal noted that the sole director of the Respondent company is Mr Gautam Kumar. It did not therefore consider the contents of the email received from Mr Jayraj Kumar, who was not a party to the case and had not been authorised as a representative of the Respondent.

### **The Applicant's submissions**

13. The Applicant told the Tribunal that her tenancy had commenced on 6 August 2025. All of her dealings regarding the tenancy had been with Mr Jayraj Kumar, whom she believed was Mr Gautam Kumar's father, and who had told her that he had power of attorney for the Respondent. She had paid Mr Gautam Kumar a total of £1100 in two instalments at the start of her tenancy, as instructed by Mr Jayraj Kumar. She understood this payment to include the sum of £550 for the first month's rent and a further £550 for a tenancy deposit.
14. The tenancy agreement which she had signed said that no tenancy deposit was to be paid. Clause 10 of the agreement provided that one month's "advance rent" was to be paid at the start of the tenancy, which would be returned at the end of the tenancy, so long as the property was handed back in the same condition. It also stated that any damages incurred within the property would be deducted from the advance rent. Mr Jayraj Kumar had insisted that she sign her name against clause 10 specifically, as well as signing at the end of the agreement. She had queried this before signing the agreement, but was not aware of the rules on tenancy deposits at the time. She had very little time to find somewhere to live, as she was about to start a new job in Aberdeen and had little alternative but to accept the terms stated.

15. Clause 10 also said that the tenancy was intended to be long term, and was for a minimum of six months. She had only found out later that this was not compliant with the law. She had notified Mr Jayraj Kumar on 16 September 2025 that the boiler needed repair, and he told her that if she was not happy, she could leave the property. He also said to her verbally that he would give back her deposit if she did so. She said that he used the term “deposit” interchangeably with ‘advance rent” in conversation with her.
16. She paid the second month’s rent on 1 October 2025 and decided to leave the property, as she did not wish to continue with the tenancy in the circumstances. She said that Mr Jayraj Kumar had been rude towards her, so she asked her husband to give him notice on her behalf. Her husband had done so by WhatsApp message on 9 October 2025, stating that she wished to give notice to terminate the tenancy at 1 November 2025. Mr Kumar had replied shortly afterwards, stating that the notice was accepted.
17. She had moved out of the property on 27 October 2025. She had left it in a clean and tidy condition, as evidenced by the photographs which she had submitted to the tribunal.
18. She had asked Mr Kumar for her deposit to be returned. He wrote to her on 3 November 2025, attaching an invoice for alleged unpaid rent of £165 for the period 1-9 November 2025. His email stated that her “advance rent” payment of £550 had “been adjusted, as per the signed agreement, against cleaning costs, marketing expenses and rent loss due to the early termination of the tenancy”.
19. She had then sent an email directly to Mr Gautam Kumar on 4 November 2025, asking for the return of her deposit. She had received no response from him. He had not returned her deposit to her.
20. The Applicant acknowledged that she may be due to pay the £165 additional rent for November because she had given notice on 9 October 2025. She had not paid this because Mr Kumar had refused to return any of her deposit. She asked the tribunal to grant a payment order for the amount of the deposit less any rent which she was due to pay for the month of November.

### **Findings in fact**

21. The Tribunal made the following findings in fact:

- The parties entered into a private residential tenancy agreement in relation to the property, which commenced on 6 August 2025.

- The Respondent is the heritable proprietor and registered landlord of the property.
- The Respondent was the landlord named under the tenancy agreement.
- The tenancy agreement stated that the rent payable by the Applicant under the tenancy agreement was £550 per month, payable on the 6<sup>th</sup> of each month.
- The parties had later agreed that the Applicant would pay the rent for 6<sup>th</sup>-30<sup>th</sup> September only and thereafter would pay rent on the 1<sup>st</sup> of the month.
- The tenancy agreement stated at clause 10 that the tenant was to pay one month's "advance rent", which would be returned as long as the flat was handed back in the same condition.
- The tenancy agreement also stated that any damages incurred within the property would be deducted from the advance rent. It stated that the tenant agreed and confirmed that there was no deposit for the tenancy, and that the tenant agreed that they would not be able to claim this amount through the tribunal.
- The Applicant paid a tenancy deposit of £550 to Mr Gautam Kumar on 5 or 6 October 2025.
- Mr Gautam Kumar is the sole director of the Applicant company, GK Properties (Aberdeen) Ltd.
- The Respondent did not pay the Applicant's tenancy deposit into an approved tenancy deposit scheme within 30 working days of the beginning of the tenancy, or at any later date during the tenancy.
- The Applicant's husband gave notice on her behalf on 9 October 2025.
- The Applicant's tenancy ended on or around 8 November 2025.
- The Respondent did not repay the Applicant's tenancy deposit to her at the end of the tenancy.

### **Reasons for decision**

22. The tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

23. For the reasons set out in its decision on the conjoined rule 103 application (reference no: FTS/HPC/PR/25/4834), the tribunal determined that the "advance rent" of £550 which the Applicant had paid to the Respondent was a tenancy deposit. As this had not been paid into an approved scheme, the Applicant was unable to apply to such a scheme for the return of her deposit, or to dispute any claim which the Respondent may have made on the deposit.

24. Mr Jayraj Kumar had stated in an email of 3 November 2025 that the Applicant's "advance rent" payment of £550 had "been adjusted, as per the signed agreement, against cleaning costs, marketing expenses and rent loss due to the early termination of the tenancy". He had provided no evidence of these alleged costs and losses. The tribunal accepted the Applicant's submissions, supported by the photographs she had produced, that she had left the property in a clean state.
25. The tribunal does not consider that marketing expenses or rent loss due to early termination of a tenancy would be legitimate deductions from a tenancy deposit, were it to be lodged with an approved scheme. The tenancy agreement stated that the tenancy was intended to be long term and for a minimum of 6 months. A tenant under a private residential tenancy may however serve notice at any time, and any stipulation of a minimum duration cannot be enforced.
26. The tribunal therefore determines that the Applicant's tenancy deposit should be returned to her by the Respondent. It considers, however, that the Applicant is due to pay the Respondent some rent for the month of November 2025. The tribunal notes that the WhatsApp message which the Applicant's husband sent to Mr Jayraj Kumar on 9 October 2025 did not fully comply with the legal requirements for notice given by a tenant under a private residential tenancy, as set out in sections 48 and 49 of the 2016 Act. It was not given by the tenant herself, and it failed to state a date on which the tenancy was to end. It was clear, however, that the notice was accepted by Mr Kumar on the same date.
27. The minimum notice period is 28 days from the date the notice is given, in terms of section 49 (3) of the 2016 Act. Had the notice met the legal requirements, the earliest date on which the tenancy could end would have been 8 November 2025, being one day after the last day of the minimum notice period (section 49 (1) (c) of the 2016 Act).
28. The tribunal therefore considers that the Applicant is liable to pay to the Respondent the rent which was due from 1 to 8 November 2025.. Based on a monthly rent of £725, the daily figure is £218.08 (i.e. £550 x 12/365). The sum payable for 8 days is therefore £144.66.
29. The tribunal therefore determined that an order for payment by the Respondent of the sum of £405.34 should be granted in favour of the Applicant.

## **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a**

**point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Sarah O'Neill

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**Legal Member/Chair**

5 May 2026\_\_\_\_\_  
**Date**