



SHERIFF APPEAL COURT

**[2026] SAC (Civ) 38
EDI-SM11-25**

Sheriff Principal N A Ross

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL ROSS

in the appeal in the cause

SUSAN BAKSHI

Claimant and Appellant

against

JAMES GIBB MANAGEMENT LIMITED

Respondent

8 June 2026

[1] The appellant challenged dismissal of her simple procedure claim following a case management discussion on 28 August 2025. The sheriff dismissed the claim on the basis that the claim was incompetent.

[2] The claim sought “the Court’s authoritative interpretation and Declarator” in relation to the meaning of title deeds relating to a housing development. The appellant took issue with demands by the respondent, the factors for the development, in relation to contribution to insurance payments. The appellant did not, however, identify any particular claim, but sought a general ruling on the legal effect of the title deeds; the factor’s claimed

representation not to be bound by the title deeds; the legal status of the claimant; interpretation of defined terms in the title deeds, and other requests. As an alternative claim, the appellant claimed the sum of £4,995, but without explaining the legal basis or the quantification. She produced invoices totalling £221.79, without further description.

[3] The respondent defended the claim on the basis that it was incompetent under simple procedure. The sheriff found the claim to be incompetent, and dismissed the claim, but having expressly delayed dismissal for a period to allow the appellant to draft and lodge an initial writ under ordinary procedure, where such a claim would be competent. He also refused to “disqualify” the respondent’s agents from appearing, as the appellant sought, again on the basis of competency. The sheriff awarded expenses in favour of the respondent, the claim having been dismissed.

The appellant’s submissions

[4] The appellant’s initial written appeal challenged only the expenses. Subsequent written submissions expanded this to challenge the merits. As the appellant was a party litigant, I considered both documents, although any appeal is customarily limited by the written Note of Appeal.

[5] The appellant made a general claim to be paying for properties which she did not own. While that fact might support a claim, the appellant did not make any identified monetary claim, or explain the legal background, either before the sheriff or on appeal. The claim was entirely general and based on purported issues of principle, rather than identifying a specific monetary claim - the purported alternative claim for £4,995 was unanchored and not capable of supporting any award. The submissions proceeded, apparently assisted by software, to make general assertions which largely did not reflect

what the sheriff actually did, or the claim he had to adjudicate upon. They did not address the basic fact that the claim was not competent. In relation to expenses, the award was challenged, but only on the absence of written reasoning, rather than identifying any error in the result.

The respondent's submissions

[6] The respondent's submission made detailed reference to the rules under which the claim was incompetent, and under which expenses were awarded. It pointed out that the appellant's submissions did not reflect the grounds of appeal. It noticed the wider failures of the appeal, and addressed the appellant's criticisms of certain procedural issues such as lodging productions and submissions made. It noted no point of law arose.

Decision

[7] The grounds for dismissal of the claim were straightforward and self-evidently correct. Simple procedure was created by section 72 of the Courts Reform (Scotland) Act 2014, to deal with certain types of claim. These are listed in section 72 itself. They do not include the present claim, which was for a general declarator which was not related to any identified financial demand. The remedies available in simple procedure are set out in the Act of Sederunt (Simple Procedure) 2016 at rule 13.4. These do not include any power to issue declarators of the type sought.

[8] Accordingly, the claim should not have been brought under simple procedure. The sheriff ordered dismissal of the simple procedure claim, as it could not proceed. The sheriff made the appropriate order under rule 17.2 transferring the cause to ordinary procedure, where such a claim might be heard. The claimant did not proceed with any ordinary action.

[9] On appeal the appellant sought recall of the award of expenses, or alternatively reconsideration. Despite the submission containing a flurry of broadly-stated legal propositions, the basis for seeking recall was misconceived. The appellant criticised the sheriff for treating the action as incompetent without considering amendment. The onus for doing so was, however, for the appellant, not the sheriff, and in any event amendment could not cure incompetency. The appellant also claimed that a discussion at the hearing raised procedural fairness issues. The proposition was both incoherent in its terms and irrelevant, as no discussion or decision by the court could cure the fatal flaw of incompetency. The appellant also criticised the sheriff for not considering severability. Again, that was for the claimant to do, and in any event a severed claim would not have left a coherent claim capable of being proved. In short, simple procedure is for simple financial claims, not for actions of declarator. The addition of an alternative and unexplained claim for £4,995 did not cure this incompetency.

[10] The appellant submitted a series of propositions stated at a general level, being propositions in law which were largely uncontroversial but of no assistance in identifying specific facts or any specific errors. Only if the sheriff had erred could an appeal be successful. The award of expenses was a matter for the discretion of the court. The appellant would require, and failed, to identify why the exercise of discretion in this case was not one which a sheriff acting reasonably have exercised. In circumstances where the appellant had summoned the respondent to court and made them incur expense on the basis of a baseless claim, there is no obvious reason why the appellant should avoid responsibility for that. The sheriff did not require to identify anything other than the standard rule for expenses, namely that expenses follow success. He did so, describing the award as the

default result. His exercise of discretion was not flawed, and there is no basis upon which an appeal court could interfere.

[11] The appellant did not appear to recognise the fundamental fairness in finding her liable where, having wrongly summoned the respondent to court, the respondent incurred expense in defending the action. She must take responsibility for her decision. If the respondent has incurred wasted expense as a result, it is not unfair to find the appellant liable for some part of the respondent's wasted expenses. The court ordered that those expenses be independently taxed (audited) prior to decree. Objectively, that is a just result.

[12] It is a matter of regret that 11 pages of apparently software-generated but misleading, poorly focused, over-generalised and over-stated argument has encouraged the appellant to believe otherwise. There is a more serious point - two of the cases cited in submissions appear to be non-existent. Every litigant must take responsibility for their own submissions. They are not relieved of that responsibility by adopting material prepared by a third party, or a software programme. Attempting to influence a judicial decision by reference to false material, whether knowingly or carelessly presented, must raise fundamental questions of breach of duty to the court.

Disposal

[13] The appeal is refused. I will answer the questions posed by the sheriff in the Appeal Report in the negative and find the appellant liable to the respondent in the taxed expenses of this appeal, on the same principle that having created an unsuccessful appeal, the appellant should bear some of the respondent's expenses.