



**SHERIFF APPEAL COURT**

**[2026] SAC (Civ) 49  
DBN-SG666-24**

Appeal Sheriff I M Fleming

**OPINION OF THE COURT**

delivered by APPEAL SHERIFF I M FLEMING

in the appeal in the cause

**LAAG LIMITED**

Claimant and Respondent

against

**REJ MOUNTAIN LIMITED**

Respondent and Appellant

16 January 2026

**Background**

[1] This is an appeal against the decision of the sheriff at Dumbarton. The principal issue in this case is whether the sheriff erred in law in rejecting the appellant's preliminary submissions that the claimant and respondent, as a dormant company, was not entitled in law to pursue a financial claim and obtain decree for payment.

[2] In this simple procedure claim the claimant, who is the respondent in the appeal, raised proceedings against the appellant company for payment of the sum of £2,720. After sundry procedure decree was granted against the appellant on 6 June 2025.

[3] In terms of an interlocutor dated 18 August 2025 the Sheriff Appeal Court assigned the appeal to proceed by way of written submissions in terms of Rule 8.2.(1)(b) of the Sheriff Appeal Court Rules 2021; I have considered the written submissions lodged by both parties.

[4] At the hearing on 6 June 2025 the appellant argued before the sheriff that since the respondent was a dormant company it was unable to litigate.

[5] It is not in dispute that the respondent is a dormant company, but the solicitor instructed by the respondent argued that it was competent for a dormant company to litigate to protect its rights.

[6] The sheriff found in favour of the respondent. She considered that the status of a “dormant company” had implications for the company which were primarily for tax and accounting purposes but also in terms of the information which continues to require to be submitted to Companies House. The sheriff concluded with reference to section 1169 of the Companies Act 2006 that a dormant company continues to exist and remains “a legal person”. Further, she concluded with reference to the Butterworths Corporate Law Service, (referred to with approval in *Maxima Creditor Resolutions Ltd v John Thomas Fealy & Thomas Joseph Barrett* 2024 EWHC 2694) that a company that is dormant ceases to be so as soon as a significant accountant transaction occurs - at which time it stops being dormant and loses the exemptions associated with dormant status.

[7] With reference to the case of *Farrans (Construction) Ltd v Glasgow City Council* 2013 2 WLUK 316 the sheriff concluded that a dormant company could competently litigate.

### **The appellant’s submissions**

[8] The appellant has raised two issues. The first relates to what is termed a “*pactum illicitum*.” It was averred that the arrangements made between the appellant and the

respondent were made to avoid any declaration to the authorities that payments were being made.

[9] Secondly, the appellant maintained that the sheriff erred in law by “misunderstanding” the nature and function of a dormant company. It was submitted that a dormant company is one that does not trade, and the statutory accounts of the respondent disclosed that they had not traded at all. It was submitted that a company cannot be dormant and be involved in the development of a company for which they now seek financial payment. Its dormant status prevented it from competently raising proceedings. It was maintained by the appellant that a dormant company is prohibited from suing for payment of lease contract debts or claims and it is limited in its financial activities to dealing with “admin payments”. The appellant argued that the extract decree should be “superseded.”

### **The respondent’s submissions**

[10] The respondent opposed the appeal. It adopted the reasoning of the sheriff and invited the Sheriff Appeal Court to refuse the appeal.

[11] Insofar as the ground of appeal referable to “*pactum illicitum*” is concerned the appellant’s submissions are silent upon that point. The respondent invites the court to reject the ground of appeal upon that basis.

[12] Insofar as the issue of dormancy in concerned reference was made by the respondents to the case of *Farrans (Construction) Ltd* at paragraph 83 wherein Sheriff Ross (as he then was) stated that “Dormancy does not denote any lack of legal capacity”. Further, reference is made to Sheriff Ross’ observation, also within paragraph 83, that “The pursuer’s claim is not defeated by mere reason of their dormant status”.

[13] The respondent also referred to the case of *WRB (NI) Ltd v Henry Construction Projects Ltd* 2023 WL 01871050 and submitted that that case is also authority for the proposition that a dormant company can raise court proceedings to enforce its rights. In that case, *WRB (NI) Ltd* had raised proceedings to enforce an arbiter's decision in a construction dispute.

[14] By means of clarification the respondent brought to the court's attention the fact that since its inception on 13 January 2023 the respondent has lodged the necessary documentation at Companies House.

[15] It was submitted that there is no merit within the appeal.

### **Decision**

[16] The appeal is refused.

[17] Insofar as the argument in relation to a "*pactum illicitum*" is concerned no argument has been presented to the court in relation to that issue and accordingly that ground of appeal falls to be refused.

[18] Section 1169 of the Companies Act 2006 defines a dormant company:

- “(1) For the purposes of the Companies Acts a company is ‘dormant’ during any period in which it has no significant accounting transaction.
- (2) A ‘significant accounting transaction’ means a transaction that is required by section 386 to be entered in the company’s accounting records.
- (3) In determining whether or when a company is dormant, there shall be disregarded –
  - (a) any transaction arising from the taking of shares in the company by a subscriber to the memorandum as a result of an undertaking of his in connection with the formation of the company;
  - (b) any transaction consisting of the payment of –
    - (i) a fee to the registrar on a change of the company’s name,
    - (ii) a fee to the registrar on the re-registration of the company,
    - (iii) a penalty under section 453 (penalty for failure to file accounts), or
    - (iv) a fee to the registrar for the registration of a confirmation statement.”

[19] As can be seen from the section it does not prohibit a dormant company from any particular actings. As the sheriff indicated it simply details matters which are to be disregarded for assessing whether there has been a significant accounting transaction during a particular period.

[20] This court considers that the law is accurately stated by Sheriff Ross in the case of *Farrans (Construction) Ltd* at paragraph 83:

“At the outset, it is necessary to be clear on the status of a dormant company. In terms of section 1169 of the Companies Act 2006, a company is dormant during any period in which it has no significant accounting transaction, which in turn includes (section 386) records of money received and expended by the company on a day to day basis, and all assets and liabilities of the company. In my view, however, dormancy is primarily an accounting status, rather than a legal disability, and its main effect is to permit limited accounts and returns to be made to the Registrar of Companies. The ability to offer works on the market is therefore not defeated simply by reason that the pursuer is a dormant company. Dormancy does not denote any lack of legal capacity.”

[21] As is clear dormancy does not denote any lack of legal capacity. Further, the court held also at paragraph 83 that the pursuer’s claim is “not defeated by mere reason of their dormant status”.

[22] As is submitted by the respondent, the case of *WRB (NI) Ltd* demonstrates that a dormant company can raise court proceedings to enforce its rights and Justice Pepperall sitting in the Kings Bench Division (Technology and Construction Court) noted at paragraph 2 that “The oddity of this case is that *WRB* is and always has been a dormant company”.

[23] Nowhere within the case of *WRB (NI) Ltd* is it suggested that the dormant company was disentitled to defend an arbitration and to raise proceedings before the Kings Bench.

[24] The appellant has lodged no authorities before the court. The court accepts the submission of the respondent, and the appeal is refused. The normal rule is that expenses

follow success, and the respondent has been entirely successful. I will therefore find the appellant liable to the respondent in the expenses of the appeal, as taxed.