SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE AT KIRKCALDY

[2026] SC KDY 86

KKD-SG294-25

JUDGMENT OF SHERIFF STEVEN BORTHWICK KC

in the cause

LYNNE WATTERS

Claimant

against

MARGARET MOBSBY

Respondent

Claimant: Mr Hannon, solicitor; Jackson Boyd LLP
Respondent: Ms Rice, solicitor; DWF LLP

KIRKCALDY, 23 April 2026

The sheriff, having resumed consideration of the cause, finds the following facts admitted or proved:

1. On the morning of 22 February 2024, the claimant Mrs Lynne Watters parked her vehicle in a space at the car park at Bennochy Medical Centre, Kirkcaldy. The weather was clear and dry. Visibility was good. Mrs Watters had brought her cousin, Mrs Elizabeth Birkett, to the medical centre so she could attend a medical appointment there.

2. At approximately 9.10am that day, after Mrs Birkett's medical appointment, Mrs Watters and Mrs Birkett returned to Mrs Watters' vehicle. Mrs Watters sat in the driver's seat and Mrs Birkett sat in the front passenger seat. Before driving off, Mrs Watters

checked around her vehicle for the presence of pedestrians and other vehicles. She observed that the way was clear for her to exit the parking bay.

3. Mrs Watters reversed her vehicle out of the parking bay, made a left turn as she did so, and then brought her vehicle to a complete stop. Whilst Mrs Watters' vehicle was stationary, the respondent, Mrs Margaret Mobsby, reversed her vehicle into the claimant's stationary vehicle, causing the respondent's vehicle to collide with the claimant's vehicle. The respondent had failed to observe the claimant's vehicle prior to the respondent carrying out her reversing manoeuvre. As a consequence of said collision, the claimant's vehicle suffered damage to the rear bumper, the rear fog lamp, and the rear nearside of the vehicle.

4. The claimant and the respondent spoke to one another following the collision. The respondent apologised to the claimant, and admitted liability for causing the collision. The respondent gave an explanation for the cause of the accident, namely that the respondent had been in a hurry to attend a home visit with a patient for which she was late. The parties exchanged contact details with one another.

5. Quantum is agreed in the sum of four thousand and sixty-seven pounds and seventy-one pence (£4,067.71) sterling, being the total of:

(i) Cost of repairs to the claimant's vehicle in the sum of £3,826.30, inclusive of the claimant's insurance policy excess of £250;

(ii) Vehicle hire in the sum of £166.41;

(iii) Inconvenience to the claimant in the sum of £75.

Finds in fact and law:

1. That the collision between the parties' vehicles which occurred on 22 February 2024 was caused by the fault and negligence of the respondent, Mrs Margaret Mobsby.

2. That the fault and negligence of Mrs Mobsby caused damage to the vehicle belonging to the claimant, Mrs Lynne Watters.

3. That the respondent is liable to the claimant as a consequence of the respondent's fault and negligence, as a result of which the claimant's vehicle suffered damage and the claimant thereby suffered financial loss.

4. That the claimant is entitled to payment of damages by the respondent in the sum of £4,067.71, together with interest at the judicial rate of 8 per centum per annum from the date of service, being 24 April 2025, until payment.

And therefore:

(ONE) Finds the respondent liable to the claimant;

(TWO) Grants decree for payment by the respondent to the claimant in the sum of FOUR THOUSAND AND SIXTY-SEVEN POUNDS AND SEVENTY-ONE PENCE (£4,067.71) STERLING, together with interest thereon at the judicial rate of 8 per centum per annum from the date of service, being 24 April 2025, until payment; and

(THREE) Reserves meantime the issue of the expenses in the cause.

SHERIFF'S NOTE:

[1] I heard evidence in this claim on 16 February 2026. Parties advised me that liability remained in dispute. Quantum was agreed in the sum of £4067.71, on the following basis: Cost of repairs to claimant's vehicle: £3,826.30, inclusive of claimant's policy excess of £250; Vehicle hire: £166.41; Inconvenience: £75. The core issue for determination by the court was the question of which driver was responsible for the collision between the motor vehicles driven by each of the parties.

The evidence

The claimant, Lynne Watters

[2] Mrs Watters is 59 years old, and is retired. She has been driving for around 40 years. On 22 February 2024, at around 9.10am, a collision occurred between her car, a Ford Fiesta, and the car driven by the respondent, a BMW, at Bennochy Medical Centre, Kirkcaldy. Mrs Watters had bought the car in around December 2020. She drove the vehicle most days around the time of the incident.

[3] Mrs Watters spoke to attending at the medical centre because her cousin, Elizabeth Birkett, was waiting on a hip replacement and had poor mobility. Mrs Watters had driven from Lochgelly to Kirkcaldy to take her cousin to her medical appointment. The collision occurred after the appointment. The weather at the time was clear and dry, and there was daylight. Visibility was good. Mrs Watters had parked her vehicle in a parking bay in the car park at the medical centre. She had parked nose-first into the bay, so she had to reverse out of the parking space to leave.

[4] Mrs Watters spoke to herself and her cousin getting into the vehicle and both putting their seatbelts on. Ms Watters checked around her vehicle and did not see any pedestrians or other vehicles. It is a busy medical practice, and there are always cars going in and out, but it was not as busy as usual at that time in the morning. Having checked in both side mirrors and her rear-view mirror that there were no other vehicles or pedestrians nearby, Mrs Watters reversed her vehicle. She carried out the manoeuvre at a very slow speed, as she was aware that the car park is always busy. Mrs Watters completed the reversing manoeuvre, with her vehicle facing towards the exit.

[5] Mrs Watters' vehicle was stationary when the collision occurred. The first she was aware of the other vehicle was when she heard a "thud" and felt the impact. Her vehicle's rear sensors did not sound a warning. Mrs Watters did not see the other vehicle coming from anywhere.

[6] Mrs Watters applied her handbrake and got out of her vehicle. Mrs Mobsby, the driver of the other vehicle, was already out of her vehicle. Mrs Mobsby asked Mrs Watters if she was okay, and then asked Mrs Watters' passenger if she was okay. Mrs Mobsby said that she had looked in her mirror, but she had not seen Mrs Watters' vehicle when Mrs Mobsby was reversing out. There was nobody else in Mrs Mobsby's vehicle. Mrs Mobsby was very apologetic, she said she was in a hurry, she was due to be at a client's house at 9 o'clock and she was running late. Mrs Watters formed the impression that Mrs Mobsby was very nice, but she was in a hurry. Mrs Mobsby said she had not seen Mrs Watters, she was glad they were alright, and she offered to exchange details with Mrs Watters.

[7] Mrs Mobsby asked Mrs Watters if she could move her vehicle forwards to inspect the damage. Both vehicles were sitting tight together, rear bumper to rear bumper. Mrs Watters observed that her vehicle had suffered damage, namely that the rear fog light was broken and the rear bumper was loose, and had dropped down and was sitting on the rear wheel arch at the driver's side of the vehicle. There was no visible damage to Mrs Mobsby's vehicle. Mrs Mobsby ran her hand over the area on her vehicle where the cars had been touching. There may have been a scratch on Mrs Mobsby's vehicle, but no evidence of damage.

[8] Mrs Watters did not take any photos of the vehicles, despite having her mobile phone with her. Mrs Watters explained this was because Mrs Mobsby had admitted

liability, she was an NHS worker, she appeared to be in a hurry, and Mrs Watters believed her integrity. Both parties exchanged details of their names, car registration numbers and mobile telephone numbers. Mrs Mobsby asked Mrs Watters not to contact her insurance company until Mrs Mobsby had spoken to her husband, as he dealt with all such matters for her.

[9] Mrs Watters took her cousin home after the collision. Mrs Watters then took her car to her local garage and asked them for a quick quote for the damage caused. It was there that damage to the rear wheel arch of the vehicle was noted, which Mrs Watters had not noticed before. Mr Mobsby, the husband of the respondent Mrs Mobsby, contacted Mrs Watters by telephone after 10 o'clock that morning. Mrs Watters formed the impression that Mr Mobsby was very abrupt and quite aggressive. Mr Mobsby said that if parties were to take this to the insurance company, it is only the insurance company who would gain. He said that he thought the parties should just repair their own vehicles.

[10] Mrs Watters replied that there was no way she was agreeing to that, because it was Mr Mobsby's wife who had reversed into her vehicle. Mrs Watters questioned why she should pay, and made the point that there was no evidence of damage to the Mobsbys' vehicle. Mr Mobsby said that when he had looked at his car, there was damage, although it was not visible. Mrs Watters told Mr Mobsby that she thought she should end the call at that point, and advised him she would report the matter to her insurance company. Mrs Watters asked Mr Mobsby to clarify his surname, as she could not read his wife's handwriting. Mr Mobsby said he was not telling her anything. Mrs Watters indicated that his wife had already given her surname, at which point Mr Mobsby laughed and spelled out his surname. Thereafter, Mrs Watters contacted her insurers, Aviva, at about 11 o'clock that morning.

[11] In cross-examination, Mrs Watters was challenged as to her account of the manner in which the collision had occurred. However, she held firm to her position that her vehicle had been stationary when the collision had occurred, and that it was Mrs Mobsby's vehicle which had been driven into her vehicle.

Witness for the claimant, Elizabeth Birkett

[12] Mrs Birkett is 72 years old and retired. She is a cousin of Lynne Watters, the claimant.

[13] On 22 February 2024, Mrs Watters had driven her to Bennochy Medical Centre, as she had an appointment for her knee. A collision occurred in the car park there, after her appointment. It was light and the weather was dry. Mrs Watters had parked her car facing in towards the surgery. Mrs Watters reversed her vehicle out of the space, turning to one side a little bit. Mrs Birkett was sitting in the front passenger seat. Mrs Watters' vehicle was stationery for a second or so, when Mrs Birkett felt the bump of a collision. Mrs Birkett had not seen the other vehicle before the collision. Mrs Watters got out of the vehicle and went round to the back of her car.

[14] Mrs Birkett heard Mrs Mobsby say that she was really sorry, that it was her fault as she was in a rush. Mrs Birkett formed the impression that Mrs Mobsby sounded like she was in a bit of a state. Mrs Birkett explained that she heard the conversation between Mrs Watters and Mrs Mobsby because Mrs Watters had left her car door open. Mrs Mobsby then came round to Mrs Birkett and asked her if she was alright. Mrs Birkett said that she was fine, and Mrs Mobsby said, "Are you sure you are alright? I'm really sorry, it was my fault, I was in a rush." Mrs Birkett was clear that Mrs Mobsby had said those words.

[15] In cross-examination, Mrs Birkett was challenged on the issue of whether Mrs Mobsby's vehicle had been stationary at the time of the collision. Mrs Birkett said she did not know, as she had not seen Mrs Mobsby's vehicle prior to the collision, as she was looking out of the front of the vehicle she was in. However, Mrs Birkett was certain that Mrs Watters' vehicle was stationary at the time of the collision.

The respondent, Margaret Mobsby

[16] Mrs Margaret Mobsby is 49 years old. She is employed as an assistant medical practitioner, based at Bennochy Medical Centre, Kirkcaldy, for the past 3 years. Her work frequently involves her traveling to and from the medical centre throughout the course of the day, to collect medical supplies and make home visits to patients.

[17] On 22 February 2024, the weather was clear and dry. Mrs Mobsby had gone to the medical centre in the morning at the request of a colleague to collect an item to be taken to a palliative care patient. Her vehicle was parked nose-in to the parking space, with the rear of the vehicle towards the car park. Mrs Mobsby described coming out of the office, getting into her vehicle, and reversing out of the parking space. She described her vehicle facing towards the exit of the car park. She was getting ready to drive forwards, when she felt a bump to the rear of her vehicle. Mrs Mobsby said her vehicle was stationary at the time of the collision. She could not tell if Mrs Watters' vehicle was stationary at that time, as Mrs Mobsby was facing forwards.

[18] After the collision, Mrs Mobsby got out of her car and walked round to inspect the vehicles. Mrs Watters got out of her car when Mrs Mobsby walked round to the driver's side of her vehicle. Mrs Mobsby observed minimal damage to both vehicles. The right side

tail-light on Mrs Watters' vehicle was broken. There were hairline scratches on the rear bumper of Mrs Mobsby's vehicle, where the light on Mrs Watters' vehicle had struck.

[19] Mrs Mobsby believed that Mrs Watters was responsible for the collision. Mrs Mobsby stated that was so because her vehicle was stationary at the time of the collision.

[20] In cross-examination, Mrs Mobsby confirmed that the accident happened at about 9.10am. She was driving a BMW motor vehicle which belongs to her husband, and which she uses for work. She denied that she had admitted causing the accident because she was late for a home visit. She explained that she does not have specific times for home visits. That day, she had five or six home visits scheduled, as she had a Basic Life Skills course scheduled for later in the day. That course was due to start at 1.00pm. She denied being under pressure of time to carry out her home visits. The home visits that day were to administer eye drops and deliver medication, which did not take a lot of time.

[21] Mrs Mobsby confirmed that she had exchanged details with Mrs Watters at the scene of the accident. When asked if she had gone to speak to the passenger in Mrs Watters' vehicle to see if she was alright, she said that she probably had, but she could not recall. Mrs Mobsby denied asking Mrs Watters not to call her insurance company until Mrs Mobsby had spoken to her husband. Mrs Mobsby said she telephoned her husband after Mrs Watters had driven away from the scene of the accident. Mrs Mobsby said she did not know whether her husband called Mrs Watters that morning, as she was at work and then went straight to her training course. She accepted that she must have passed on Mrs Watters' contact details to her husband.

[22] Mrs Mobsby was asked why the matter had not been reported to the police. She did not accept that, and said that she did telephone the police, and told them exactly what had

happened. Mrs Mobsby said that the police asked her if anybody had been hurt. She told them no, and confirmed that she had exchanged details with the other driver. The police then told her to contact her insurance company. Mrs Mobsby said that she had spoken to her husband that night. He told her that he had contacted Mrs Watters to pass on the insurance details, as Mrs Mobsby had not had her insurance details to hand at the time of the accident.

Decision

[23] I found the claimant Mrs Watters to be a credible and reliable witness. She was straightforward in giving her evidence. She did not exaggerate. She provided a detailed account of her actions immediately prior to the collision, the collision itself, and the events in the aftermath. I believed her evidence. She was clear that she had carefully checked around her vehicle for the presence of other vehicles or pedestrians, prior to commencing her reversing manoeuvre. She was clear that her vehicle had been stationary at the time of the collision. She was certain that Mrs Mobsby had made an admission of responsibility, and had given an explanation as to why the collision had occurred. Where her evidence differed from that of the respondent Mrs Mobsby, I preferred the evidence of Mrs Watters.

[24] Whilst the evidence of Mrs Birkett was less detailed than that of Mrs Watters, nevertheless, Mrs Birkett's evidence corroborated that of Mrs Watters in its essential elements. Mrs Birkett was clear that Mrs Watters' vehicle was stationary at the time the collision occurred. Mrs Birkett gave a clear account of Mrs Mobsby apologising, making an admission that the accident had been her fault, and giving the explanation that that was because she was in a rush. I found Mrs Birkett to be a credible and reliable witness.

I believed her evidence. Where the evidence of Mrs Birkett departed from that of Mrs Mobsby, I preferred the evidence of Mrs Birkett.

[25] I did not find Mrs Mobsby to be a wholly credible and reliable witness. I found her to be dogmatic in her position, and rather overbearing in her presentation. She was evasive when questioned regarding the conversation she had with her husband. That was a relatively straightforward matter, which ought not to have warranted such an unhelpful disposition from the respondent. That caused me to doubt the veracity of the account she had given regarding the incident itself. Furthermore, there was no evidence led that Mrs Mobsby had carried out any checks around her vehicle prior to commencing her reversing manoeuvre. Overall, I found Mrs Mobsby to be an unreliable witness. I prefer the evidence of Mrs Watters and Mrs Birkett where their evidence differs from that of Mrs Mobsby.

[26] I find the respondent Mrs Mobsby responsible for the collision and for the damage to the claimant's vehicle. I find that I can rely on the evidence of the claimant, supported by that of Mrs Birkett, which I accept. I find that on the balance of probabilities the collision took place as described by the claimant and her vehicle was damaged as a result.

[27] Parties are agreed as to quantum. On that basis, I will make an order for payment by the respondent to the claimant in the sum of £4067.71, broken down as follows: Cost of repairs to claimant's vehicle: £3,826.30, inclusive of claimant's policy excess of £250; Vehicle hire: £166.41; Inconvenience: £75. Interest is payable thereon at the rate of 8% per annum from the date of service of the claim form, being 24 April 2025, until payment. The agent for the respondent made an undeveloped submission that her *esto* position was that the claimant had materially contributed to the collision, and that the court should moderate any

award of expenses accordingly. I find no evidential basis to support such a submission, and therefore I do not consider that there is any element of contributory negligence in this case.

[28] If expenses are not agreed, then I would ask parties to submit short written submissions on expenses within 4 weeks of the date of this interlocutor. If expenses are agreed, I would ask that parties advise the sheriff clerk at Kirkcaldy and I will issue the appropriate interlocutor.