



SHERIFF APPEAL COURT

**[2026] SAC (Civ) 70
PIC-PN2592-21**

Sheriff Principal N A Ross
Appeal Sheriff W Sheehan
Appeal Sheriff L Nicolson

OPINION OF THE COURT

delivered by APPEAL SHERIFF L NICOLSON

in the appeal in the cause

by

DENISE PARKS

Pursuer and Respondent

against

LG ELECTRONICS UK LIMITED

Defender and Appellant

Pursuer and Respondent: Pugh KC, Swanney; Thompsons Scotland LLP

Defender and Appellant: McGregor KC; Kennedys Law LLP

22 October 2026

[1] This action arises as a result of a fire in the respondent's home on 31 October 2018.

It was alleged by the respondent that the fire was caused by an incendiary fault within an LG K8 (2017) mobile phone ("the LG") manufactured by the appellant. The respondent sought damages for injury and property damage from the appellant. The claim was founded on a statutory breach of section 2 of the Consumer Protection Act 1987.

[2] Following a proof at the All-Scotland Personal Injury Court in Edinburgh, by interlocutor dated 18 July 2025, the sheriff found, among other things, that at the time of the

fire, there were three electronic devices in the immediate vicinity, namely the LG, a Samsung Galaxy S7 mobile phone (“the Samsung”), and an Acer Aspire ES 13 laptop (“the laptop”). They had all been left charging overnight on the arm of a sofa and the laptop was lying flat.

[3] There were two grounds of appeal. The first was that the sheriff erred in making the finding on the positioning of the laptop, in that there was no coherent explanation for accepting one source of evidence but not another; and that there was no, or insufficient, evidence upon which to reach the finding. The second ground was that, as a consequence of the first error, the sheriff was not entitled to make subsequent findings that the source of ignition of the fire was the LG or that the appellant was in breach of section 2 of the 1987 Act.

[4] This appeal turns on the sheriff’s findings in fact, and it is therefore necessary to examine the relevant sections of evidence relied upon in the appeal.

The evidence at proof

Pursuer and respondent

[5] In her evidence at proof, the respondent said that on the evening of 30 October 2018, she retired to bed with her husband. At this time, the LG and the Samsung were sitting on the arm of a two-seater sofa in the respondent’s living room. The respondent was unsure where the laptop was charging. It was either between the arm and seat of the sofa or on the floor. All three devices were charging from chargers plugged into the same extension socket which in turn was plugged into an inlet on a wall behind the sofa.

[6] At around 0300 hours on 31 October 2018, they woke to a fire that had started in the living room. The seat of the fire was at the west-corner (left side) of the two-seater sofa.

Robert Parks

[7] The respondent's husband thought that the two phones and the laptop were on the arm of the sofa for charging, as that was what the pursuer usually did every night, but he could not be certain of that.

Darren Green

[8] Mr Green is an expert in the investigation of fires and explosions. He visited the property on the afternoon of 2 November 2018.

[9] He spoke with the respondent and Mr Parks. In a preliminary report dated 9 November 2018 he recorded that on 2 November 2018 the respondent told him that the two phones and the laptop were sitting on the arm of the sofa, all charging. In evidence, Mr Green said that the respondent and her husband had told him that the laptop was sitting on or very near (as opposed to "on") to the arm of the sofa.

[10] Mr Green carried out an investigation of the devices which may be summarised as follows:

The laptop: The fire damage was largely confined to the top left of the screen and bottom left of the keyboard. The majority of the internal components were not fire damaged. The overall fire damage was consistent with the base of the laptop sitting on the sofa at the time of the fire, at the periphery of the fire. There was no evidence of incendiary material escaping the laptop. The limited damage to the laptop was not indicative of the fire originating at the battery. He concluded that the physical damage including the pattern of damage was more consistent with the laptop being subject of an external attack by the fire and not as the source of the fire.

The Samsung: The screen and the front of the Samsung were relatively undamaged, but the plastics panel at the rear had been consumed by the fire. The battery which remained in the rear panel was slightly swollen. The layers of material within the battery itself were not fire damaged. The damage was more consistent with the Samsung being attacked by the fire and not as the source.

The LG: Most of the plastics from the body of the LG, the combustible parts, had been consumed by the fire. The end of the charger cable remained in place, but the cable had been severed. The battery was detached from the phone and the plastics casing of the battery remained, although it was significantly swollen.

Further, there was a hole at one corner of the battery and all the layers of electrode material inside the battery were burnt. The extent of the damage to the body of the phone and the damage to the internal parts was more consistent with burning inside the battery and with the LG being the source of the fire. It was more likely than not that the fire had originated due to an incendiary fault with the battery of the LG.

Sheriff's decision

[11] The sheriff noted that there was no dispute that there was a fire, and that the appellant did not lead their expert witness. The only expert evidence available was from Mr Green. He accepted that it was understandable that the respondent and her husband did not have a clear recollection of the position of the devices in October 2018. Although the respondent and her husband were doing their best to tell the truth in evidence, their recollection as to the location of the devices was unreliable. However, Mr Green attended the property a couple of days after the fire and was able to speak to the account that was provided by the respondent and her husband at that time. The sheriff accepted their

accounts given at the time to be reliable. He accepted as proved that the LG, the Samsung and the laptop were sitting on the arm of the sofa.

[12] Neither party suggested that the Samsung was the cause of the fire. The evidence of Mr Green was that the damage to the base of the laptop was consistent with the laptop sitting flat on the arm of the sofa. Mr Green considered the position of the laptop in a flat and vertical position, and resting on the inside arm of the sofa in reaching that conclusion. Mr Green concluded that the physical evidence, including the pattern of damage, was more consistent with the laptop suffering external fire attack and not being the source of the fire. There was no contrary opinion and so the sheriff accepted this opinion. Similarly in the absence of contrary evidence the sheriff accepted Mr Green's opinion that the nature and extent of the damage to the LG indicated that the source of the fire was the LG due to an incendiary fault within the battery.

[13] The sheriff concluded that on the balance of probabilities the respondent had proved that the fire on 31 October had been caused by the LG supplied by the appellant. The respondent had also proved that there was a defect to the LG in terms of section 3(1) of the Consumer Protection Act 1987 and that liability had been established under section 2 of the 1987 Act.

Submissions for the appellant

[14] Counsel for the appellant submitted that there was insufficient evidence for the sheriff to make the findings. The third finding in fact was that when the respondent and her husband retired to bed "two mobile phones and a laptop computer were left sitting on the arm of their living room two-seater sofa (sofa) which was placed against the south wall. The laptop was lying flat." The positioning of the laptop was central to the respondent's case.

It led to the sheriff's conclusion that the LG was the source of the ignition and that there was a defect in the LG in terms of section 3(1) of the Consumer Protection Act 1987.

[15] The sheriff had failed to explain why he found the respondent and her husband's evidence to be unreliable yet appeared to accept their earlier account provided to the expert. Passage of time was an unsatisfactory reason. The sheriff was "plainly wrong" to reach such a conclusion on the positioning of the laptop.

[16] Mr Green's evidence was that the respondent and her husband did not have a clear recollection of the precise arrangement of the devices, except from that they were all "on or very near" to the arm of the sofa. This differed from the sheriff's finding that all three devices were on the arm of the sofa. The sheriff assumed evidence that was not before him. The position of the laptop at the time of the fire was a matter at large for the Sheriff Appeal Court: *Morrison v Kelly and Sons* 1970 SC 65.

[17] The respondent's evidence was that the laptop could have been at the side of the sofa leaning against the arm of the sofa. Her husband said that the laptop was likely situated beside the phones. This evidence indicated that the laptop was likely lying on the seat of the sofa and against the arm of the sofa. Mr Green's opinion was predicated on the laptop lying flat on the arm of the sofa beside the two mobile phones. All possible configurations of the positioning and orientation of the laptop had to be excluded for Mr Green's concluding opinion to be accepted. There was no evidence led exploring the cause of the fire and distribution to the laptop if it was lying on the seat of the sofa and against the arm of the sofa. This lack of evidence was fatal to the respondent's case: *Rhesa Shipping SA v Edmunds* [1985] 1 WLR 948.

Submissions for the respondent

[18] Counsel for the respondent submitted that the only relevant issue was the source of the fire. The evidence showed that there were three devices left to charge on the arm of the sofa, that a fire started at the edge of the sofa, and that whilst all three devices showed signs of fire damage, only the LG showed signs of damage consistent with causing the fire.

[19] The evidence for the sheriff's finding that the three devices were on the sofa came from three sources: first, the evidence of Mr Green, who reported the account of the respondent and her husband that the devices were on the arm of the sofa; second, the evidence of the respondent and her husband, which was accepted as less reliable due to 5½ years having passed since the incident; third, the evidence of Mr Green that the damage to the laptop was consistent with it lying flat on the arm of the sofa. It was implicit that the evidence from Mr Green of the account provided by the respondent and the appellant in the immediate aftermath of the fire was more reliable than their evidence sometime later. This was a matter of common sense and recognised judicial methodology.

[20] The finding that the LG was the source of the fire was extrapolated from the evidence that there was severe damage to the LG which was more consistent with burning inside the battery. There was less damage to the laptop than the LG and such damage as there was to the laptop was more consistent with the laptop being attacked by the fire rather than being the source. The Samsung was relatively undamaged. It was accepted that the respondent had to investigate other possible causes of the fire. A reading of the transcript showed that this was done. However, the respondent did not require to consider every possible position and orientation of the laptop. Mr Green's evidence throughout was that the physical damage did not support the premises put in cross of the orientation of the laptop. In evidence, Mr Green said: "I really don't see the difference it makes if it's on the

arm [of the sofa] or slightly against the arm of the sofa” (page 109 of the transcript of his evidence).

[21] Mr Green’s evidence was that the appellant’s expert, who had also examined the scene but did not give evidence, agreed that the laptop was lying flat on the sofa.

In evidence, Mr Green said that the appellant’s expert had found foam insulation from the sofa adhered to the base of the laptop, indicating it was not vertical. The sheriff noted that Mr Green had considered the differing positions of the laptop on the sofa.

[22] The respondent’s case had not been predicated on the position of the laptop. The microscopic focus on the position of the laptop ignored all the other evidence (*Greater Glasgow Health Board v Multiplex Construction Europe Ltd* [2026] CSIH 16, paragraph 80).

[23] The Sheriff Appeal Court may only interfere with findings in fact when a sheriff’s decision cannot be justified nor explained: *McGraddie v McGraddie* [2013] UKSC 58; *Henderson v Foxworth Investments Ltd* [2014] UKSC 41; and *AW v Greater Glasgow and Clyde Health Board* [2017] CSIH 58. The appellant has not identified a proper basis upon which to allow the court to interfere with the sheriff’s findings in fact.

[24] The grounds of appeal did not have the effect of interfering with the sheriff’s substantial findings. There was no plausible alternative source of the ignition. The potential sources were covered by expert evidence and resulted in detailed findings in fact. These findings were supported by evidence. The finding that the LG was the probable cause of the source of ignition was consistent with the evidence led. As such that finding should not be interfered with.

Decision

[25] The sheriff considered all the evidence before him. The only expert evidence available to him as to the possible sources of the fire was the respondent's expert, who gave evidence about the pattern of damage to the three devices. The sheriff accepted that evidence and made findings in fact 6, 7 and 8 to that effect. Those findings in fact were not challenged. Mr Green's opinion was that the pattern of damage to the Samsung and the laptop was consistent with them being attacked by the fire rather than them being the source of the fire. That contrasted with the pattern of damage to the LG which was consistent with it being the source of the fire. The sheriff accepted that undisputed evidence and it was this that led him to make findings that the fire did not originate within the Samsung or the laptop and that the LG was the source of ignition of the fire (findings 12, 13 and 14).

[26] While the respondent averred that all three devices were left sitting on the arm of the sofa, it is incorrect to say that the respondent's case was predicated on their positioning. It was clearly background to what were critical averments on the nature of the damage to each device and its consistency or otherwise with the individual device being the source of ignition of the fire. The sheriff was entitled to accept the evidence led on the latter averments and to exclude other possible sources of ignition before accepting that the LG was the source. It was a logical conclusion.

[27] The appellant did not explain why, and we do not accept that, every possible configuration of the position of the laptop would have to be explored and ruled out before the conclusion was reached that the LG was the source. That would be to invert the onus of proof. In fact, Mr Green had explored the laptop being in differing positions before concluding that the laptop was lying flat on the arm of the sofa. The sheriff heard that foam from the sofa was found adhered to the base of the laptop, which was inconsistent with it

being in a vertical position or on the floor. At the end of the day, however, Mr Green's evidence was that it was inconsequential whether the laptop was on the arm of the sofa or slightly against the arm of the sofa. That being the evidence before him, there was no requirement for the sheriff to speculate on other causes.

[28] In *Rhesa Shipping* (above) the court at first instance erred in regarding itself compelled to choose between two theories, both of which it regarded as extremely improbable. That cannot reasonably be said to be the case here. The sheriff noted that the proper course was for the court to determine whether the probable cause had been established, not to embark upon a process of elimination of the improbable causes, leaving standing the least improbable cause. We agree with that approach. He was persuaded by the evidence of Mr Green, for the reasons he explained.

[29] The sheriff was entitled on the evidence to find as he did that the LG was the probable cause. Even if finding in fact 3 were disregarded the totality of the sheriff's reasoning remains sound.

[30] The appellant submitted that the sheriff erred in finding that fact established. It relied on the respondent's uncertainty as to where the laptop was charging. She gave two possible positions. Neither of these was the position she had given at the time of the fire to Mr Green. The sheriff found her evidence on this matter at the proof unreliable due to passage of time. He explained, however, that he accepted her account given to Mr Green 2 days after the fire, because of its contemporaneous nature. The appellant did not dispute that the respondent and her husband were credible, as the sheriff found, and there was nothing to suggest that the respondent was otherwise generally unreliable. We agree with the respondent that it was a matter of common sense and judicial methodology that the sheriff found the account given 2 days after the fire to be reliable. The respondent had told

Mr Green that the laptop was on or very near to the arm of the sofa. The account noted in Mr Green's report of 9 November 2018 was also consistent with Mr Green's conclusion, on his examination of the laptop, as to the positioning of the device. The sheriff accepted that evidence.

[31] For these reasons it is not demonstrated that the sheriff was "plainly wrong" to reach the conclusion he did as to the positioning of the laptop. The sheriff at first instance had the benefit of the totality of the evidence and as an appellate court we must remain aware that the first-instance judge was in a much stronger position to draw inferences and conclusions from a comprehensive evaluation of competing testimonies. It is not enough that one party seeks to select passages in isolation in support of an argument that the wrong conclusions have been reached or that there is some inconsistency or incongruity in the reasoning (*Greater Glasgow Health Board v Multiplex* at paragraph 80). While that case was concerned with the assessment of evidence, the ground here is one of sufficiency. We agree that the sheriff's acceptance of the account of the respondent at the time, and of Mr Green's opinion on examination of the laptop, was justified and provided sufficient evidence to entitle the sheriff to make finding in fact 3.

Disposal

[32] We refuse the appeal and adhere to the sheriff's interlocutor of 18 July 2025. Parties agreed that a hearing on expenses would be required. It may be that this can be done by written submission. Parties should contact the clerk to arrange.