

[Cite as *Mack v. Chillicothe Correctional Facility*, 2005-Ohio-609.]

IN THE COURT OF CLAIMS OF OHIO

RAYMOND T. MACK, JR. :
Plaintiff :
v. : CASE NO. 2004-07671-AD
CHILLICOTHE CORR. FACILITY : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Raymond T. Mack, Jr., an inmate incarcerated at defendant, Chillicothe Correctional Institute ("CCI"), stated he delivered his television set and other personal property into the custody of CCI employees on April 18, 2004. Plaintiff asserted his television was loaded into the bed of a John Deere gator vehicle on the morning of April 19, 2004, and transported across institution grounds. According to plaintiff, his television set was jostled about to such an extent during transport that the channel button on the set was broken and the set's casing was scratched.

{¶ 2} 2) Plaintiff has claimed his television set was totally destroyed when it was transported by defendant's personnel on April 19, 2004. Therefore, plaintiff filed this complaint seeking to recover \$150.00, the total replacement cost of his television set, plus \$25.00 for filing fee reimbursement. Plaintiff also seeks recovery for time spent preparing his complaint, postage expenses, copying costs, and loss of use of his property. These purported loss claims are not recognizable elements of damages in an action of this type and consequently, these professed damage claims will not be further addressed. Plaintiff's total damage claim amounts to \$175.00.

{¶ 3} 3) Defendant admitted liability for the damage to

plaintiff's television set. However, defendant disputes plaintiff's damage claim of \$150.00, representing the entire replacement cost of a new set. Defendant explained the set was seven months old at the time it was damaged. Therefore, defendant suggested plaintiffs' damage award should reflect reductions based on reasonable depreciation. The trier of fact agrees. In his response to the investigation report, plaintiff did not provide any argument to justify his entitlement to recover damages in excess of the depreciated value of his television set.

CONCLUSIONS OF LAW

{¶ 4} 1) Negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶ 5} 2) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶ 6} 3) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶ 7} 4) Plaintiff has suffered damages in the amount of \$125.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

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RAYMOND T. MACK, JR.

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Plaintiff :
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CHILLICOTHE CORR. FACILITY : ENTRY OF ADMINISTRATIVE
Defendant : DETERMINATION

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Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$150.00, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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