

[Cite as *Spinner v. Ohio Bur. of Motor Vehicles*, 2005-Ohio-2487.]

IN THE COURT OF CLAIMS OF OHIO

KATHRYN SPINNER :
 :
 Plaintiff :
 :
 v. : CASE NO. 2004-09401-AD
 :
 BUREAU OF MOTOR VEHICLES : MEMORANDUM DECISION
 :
 Defendant :

.....

{¶ 1} On or about September 11, 2004, plaintiff, Kathryn Spinner, was driving her automobile within the city limits of Strongsville, Ohio, when she was stopped by a local law enforcement officer for speeding. After being stopped, plaintiff’s driver’s license status was checked and the license was listed as suspended due to a failure to prove financial responsibility. Consequently, plaintiff’s automobile was impounded. The vehicle was impounded based on information provided by defendant, Bureau of Motor Vehicles (“BMV”), relating to a license suspension imposed in April, 2004. Plaintiff asserted defendant’s records regarding her license being suspended were in error.

{¶ 2} Plaintiff insisted that at the time she was stopped in Strongsville, her driver’s license was valid. Plaintiff related defendant erroneously recorded information about her driver’s license status which resulted in her automobile being impounded. Plaintiff maintained she incurred financial loss due to BMV’s actions. Therefore, plaintiff filed this complaint seeking to recover \$183.60 for vehicle towing and impound fees, \$17.00 for “car insurance fees,” \$312.00 for work loss stemming from the September, 2004 incident, \$109.80 for “mileage to car I was being driven around in,” and \$25.00 for filing fee reimbursement.

{¶ 3} Defendant contended BMV records were accurate when plaintiff’s car was impounded on September 11, 2004. On April 2, 2004, in a proceeding before the Ashland Municipal Court involving a moving traffic violation, plaintiff’s driving and registration privileges were ordered

suspended based on plaintiff's failure to provide proof of automobile insurance. Plaintiff's driving status suspension (effective May 14, 2004) was recorded by BMV upon receiving the relevant information from the Ashland Municipal Court on April 9, 2004. Defendant related, "the information concerning Ms. Spinner's uninsured status was transmitted directly from the court into BMV's computer files." On April 14, 2004, BMV mailed a Notice of Suspension letter to plaintiff at, "the most recent address on file with the BMV for Ms. Spinner, 2112 N. High Street, #23 in Columbus." Plaintiff presumably did not receive this suspension correspondence from defendant. Defendant's records show that plaintiff did not respond to this particular noncompliance suspension until September 15, 2004, when she sent information to BMV establishing proof of financial responsibility. The noncompliance suspension of April, 2004 was cleared and deleted.

{¶ 4} Defendant maintained the BMV computer information regarding plaintiff's license status was correct on September 11, 2004. Defendant insisted the entry listing plaintiff's license as suspended was accurate, "because she had not cleared the financial responsibility noncompliance suspension." Defendant explained plaintiff produced this financial responsibility proof on September 15, 2004, and her suspension status was deleted from BMV records. Defendant, therefore, denied BMV negligently recorded inaccurate or erroneous data. Conversely, defendant contended plaintiff's own negligent omissions in failing to show proof of insurance and in failing to notify BMV of any address change as required by statute¹ resulted in all the monetary loss claimed.

{¶ 5} Resulting monetary damages are recoverable when plaintiff proves, by a preponderance of the evidence, defendant erroneously records driver's license information. *Ankney v. Bureau of Motor Vehicles* (1998), 97-11045-AD; *Serbanescu v. Bureau of Motor Vehicles* (1994), 93-15038-AD; *Black v. Bureau of Motor Vehicles* (1996), 95-01441-AD. In the instant action, plaintiff has failed to prove that defendant erroneously recorded her driver's license status. Evidence indicates defendant's records were accurate under the circumstances when this cause of action accrued. *Elliott v. Bureau of Motor Vehicles* (2001), 2001-02104-AD, jud.

¹ R.C. 4507.09(C) states:

"Each person licensed as a driver under this chapter shall notify the registrar of any change in the person's address within ten days following that change. The notification shall be in writing on a form provided by the registrar and shall include the full name, date of birth, license number, county of residence, social security number, and new address of the person."

IN THE COURT OF CLAIMS OF OHIO

KATHRYN SPINNER	:	
Plaintiff	:	
v.	:	CASE NO. 2004-09401-AD
BUREAU OF MOTOR VEHICLES	:	<u>ENTRY OF ADMINISTRATIVE</u>
Defendant	:	<u>DETERMINATION</u>

.....

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 defendant. Court costs are assessed against plaintiff. 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:

Kathryn Spinner	Plaintiff, Pro se
1040 Summit Street	
Columbus, Ohio 43201	

John R. Guldin	For Defendant
Associate Legal Counsel	
Ohio Department of Public	
Safety, Legal Services	
1970 West Broad Street	
P.O. Box 182081	
Columbus, Ohio 43218-2081	

Sent to S.C. reporter 5/20/05