

[Cite as *Rhodes v. Ohio Dept. of Transp.*, 2005-Ohio-3646.]

IN THE COURT OF CLAIMS OF OHIO

SUSAN RHODES :
Plaintiff :
v. : CASE NO. 2005-03661-AD
DEPARTMENT OF TRANSPORTATION : ENTRY OF DISMISSAL
Defendant :

: : : : : : : : : : : : : : : :

{¶ 1} On January 29, 2005, at approximately 6:00 p.m., plaintiff was driving northbound on State Route 8 when she struck a pothole near the Graham Road underpass. Plaintiff seeks reimbursement for tire replacement and balancing in the amount of \$103.25. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On May 13, 2005, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "Defendant has performed an investigation of this site and this section of SR 8, by the Graham Road underpass, and it falls under the maintenance jurisdiction of the City of Cuyahoga Falls in Summit County (See Attached Map). As such, this section of roadway is not within the maintenance jurisdiction of the defendant."

{¶ 4} Plaintiff has not responded to defendant's motion to dismiss. The site of plaintiff's incident was within the city limits of Cuyahoga Falls.

{¶ 5} R.C. 5501.31 in pertinent part states:

{¶ 6} "Except in the case of maintaining, repairing, erecting traffic signs on, or pavement marking of state highways within

villages, which is mandatory as required by section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, no duty of constructing, reconstructing, widening, resurfacing, maintaining, or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director . . ."

{¶ 7} The site of the damage-causing incident was not the maintenance responsibility of the defendant. Consequently, plaintiff's case is dismissed.

{¶ 8} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. The court shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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Plaintiff, Pro se

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Case No. 2005-03661-AD

- 3 -

ENTRY

DRB/laa

6/20

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