

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: BERNARD J. JEFFCUT	:	Case No. V2002-51451
BERNARD J. JEFFCUT	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
: : : : :		

{¶1} Bernard J. Jeffcut, *pro se* applicant, filed a reparations application seeking reimbursement of expenses incurred with respect to an October 8, 2001 automobile related incident. On January 16, 2003, a panel of commissioners determined that the applicant qualified as a victim of criminally injurious conduct and remanded the claim to the Attorney General for economic loss calculations and decision. On May 7, 2003, the Attorney General issued an Amended Finding of Fact and Decision granting the applicant an award in the amount of \$7,991.73 for unreimbursed allowable expense. However, the Attorney General denied the applicant's claim for work loss. On May 28, 2003, the applicant filed a request for reconsideration. On July 28, 2003, the Attorney General issued a Final Decision denying the applicant's claim for work loss, pilot license, increased health insurance premiums, and prescription expense. On August 4, 2003, the applicant filed an appeal of the Attorney General's Final Decision. On November 17, 2003, a panel of commissioners held a final determination in abeyance, continued the matter, and ordered the Attorney General to file a supplemental

memorandum calculating the applicant's total work loss utilizing the accrual method; the applicant's increased health care premiums costs; medical expense; and pilot license expense. Hence, this matter came to be reheard before this panel of three commissioners on January 14, 2004 at 10:05 A.M.

{¶2} The applicant and an Assistant Attorney General attended the hearing and presented exhibits and brief comments for this panel's consideration. Bernard Jeffcut stated that as a result of the criminally injurious conduct he has incurred both work loss and allowable expense. The applicant referred the panel to Exhibits A through G. Mr. Jeffcut explained that his business, the Bridal Nook, is a partnership that has sustained significant loss as a result of his injury. The applicant urged the panel to consider the figures his certified public accountant provides as an accurate reflection of the work loss he has sustained. Mr. Jeffcut stated that the Attorney General's accountant only considered the loss to each individual partner and not the loss to the partnership as a whole, which essentially impacts his financial status.

{¶3} Mr. Jeffcut also explained that as a result of the criminally injurious conduct, he must now take heart medication. The applicant stated that he seeks the difference between the normal premium rate of insurance and the increased premium rate he would incur if he were to obtain health care insurance. Mr. Jeffcut stated that a quote, as to his expected cost for health insurance, has been provided for review. Lastly, Mr. Jeffcut advised the panel that since the incident, he must now incur additional medical expense for his pilot license, which he believes should also be reimbursed to him.

{¶4} The Assistant Attorney General continued to maintain that the Final Decision should be affirmed, despite the calculations that were performed pursuant to the panel's

November 17, 2003 order. The Assistant Attorney General stated that the applicant's work loss was calculated to be only \$1,566.00, while Mr. Jeffcut's potential health care premiums were calculated to be \$7,121.40. The Assistant Attorney General argued that the pilot license fee is not recoverable because it does not qualify as an allowable expense item, since the fee was not incurred specifically for the rehabilitation and care of the victim.

{¶5} From review of the file and with full and careful consideration given to all the evidence presented at this hearing and the October 9, 2003 hearing, including the exhibits submitted by the applicant, this panel makes the following determination. We find the applicant's figures regarding his actual sales and projected sales to be reasonable for a company its age and size. Moreover since the applicant has returned to work, we believe that his business should be well into recovery for the 2004 calendar year. Therefore, we find the applicant incurred work loss in the amount of \$33,215.75 based on the following calculations:

{¶6}	<u>“YEAR</u>	<u>ACTUAL SALES</u>	<u>PROJECTED SALES</u>	
	<u>DIFFERENCE BETWEEN</u>		<u>PROJECTED & ACTUAL SALES</u>	
{¶7}	2001	\$106,744	\$134,221	\$27,477
{¶8}	2002	\$102,505	\$152,886	\$50,381
{¶9}	2003	\$128,982	\$171,551	\$42,569

{¶10} We find that in the year 2001, the cost of merchandise for the sales amount to be 56 percent of the actual sales which produced a gross profit; and in the year 2002, that percent was 54 percent. In 2003, we find it again to be 56 percent, consistent with all prior years of business as well as with the three years in consideration.

{¶11} Taking into consideration that the fixed expenses, i.e. rent, utilities, advertisements, salaries, insurance, etc., that is, expenses that exist regardless of the amount of sales that would not have an effect on further reducing gross profits in the years 2001, 2002, 2003, the income loss by the business can be calculated by multiplying the percentage times the difference between projected sales and actual sales for each given year. Applying this formula to the percentages above, the difference in 2001 of \$27,477.00 multiplied by 56 percent, cost of merchandise, equals \$15,387.12. In 2002, the difference of \$50,381.00 multiplied by 54 percent equals \$27,205.74. In 2003, the difference of \$42,569.00 multiplied by 56 percent equals \$23,838.64. This gives a grand total of \$66,431.50 of lost income for the partnership. Since there were two partners, dividing \$66,431.50 by two results in net work loss of \$33,215.75 to the applicant.

{¶12} However, we do not find that Mr. Jeffcut incurred any health insurance costs to date. Upon incurring such insurance costs, that would be an appropriate basis for filing a supplemental compensation application. We also do not find that the applicant's pilot license fee qualifies as an allowable expense item, since that expense does not go to the rehabilitation and treatment of the victim. Therefore, the July 28, 2003 decision of the Attorney General shall be reversed to award \$33,215.75 to the applicant as unreimbursed work loss.

{¶13} IT IS THEREFORE ORDERED THAT:

{¶14} 1) The July 28, 2003 decision of the Attorney General is REVERSED in part as to work loss to render judgment in favor of the applicant in the amount of \$33,215.75;

{¶15} 2) This claim is referred to the Attorney General pursuant to R.C. 2743.191 for payment of the award;

{¶16} 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

{¶17} 4) Costs are assumed by the court of claims victims of crime fund.

CLARK B. WEAVER, SR.
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

STEVEN A. LARSON
Commissioner

ID #\15-tad-021004

A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Franklin County Prosecuting Attorney and to:

Filed 4-21-2004
Jr. Vol. 2253, Pgs. 77-81
To S.C. Reporter 6-21-2004