

[Cite as *In re Delgado*, 2005-Ohio-2583.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: JUAN P. DELGADO	:	Case No. V2004-61179
JUAN P. DELGADO	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶ 1} On June 2, 2004, the applicant filed a supplemental compensation application seeking reimbursement of expenses incurred with respect to a July 9, 2003 burglary and assault incident. On September 2, 2004, the Attorney General granted the applicant an award of reparations in the amount of \$221.68 for unreimbursed work loss incurred between January 20, 2004 through January 21, 2004. On November 5, 2004, the Attorney General issued a Final Decision indicating that no modification of the previous decision was warranted. On November 22, 2004, the applicant filed a notice of appeal to the Attorney General's November 5, 2004 Final Decision. On December 3, 2004, the Attorney General issued an Amended Final Decision, whereby the applicant was granted an additional \$750.00 for unreimbursed evidence replacement loss. Hence, this matter came to be heard before this panel of commissioners on February 10, 2005 at 10:30 A.M.

{¶ 2} Neither the applicant nor anyone on his behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General stated that replacement services loss is the only issue on appeal. The Assistant Attorney General stated that the applicant was granted an

additional award in the amount of \$750.00 for unreimbursed evidence replacement loss in the Amended Final Decision. The Assistant Attorney General informed the panel that the applicant was suppose to withdraw his appeal, however he failed to do so.

{¶ 3} From review of the file and with full and careful consideration given to all the information presented at the hearing, this panel makes the following determination. First, we note that the Attorney General issued an Amended Final Decision after the applicant filed a notice of appeal. Amended Final Decisions are not permitted once an applicant has filed an appeal to the panel, since jurisdiction of the case transfers to the panel. Therefore, we shall deem the applicant's November 22, 2004 appeal to also cover the scope of the Attorney General's December 3, 2004 Amended Final Decision.

{¶ 4} Second, we find that the applicant failed to prove, by a preponderance of the evidence, that he incurred additional economic loss and hence the December 3, 2004 decision of the Attorney General shall be affirmed. Should the applicant obtain evidence of additional economic loss that would be an appropriate basis for filing a supplemental compensation application.

IT IS THEREFORE ORDERED THAT

{¶ 5} 1) The applicant's November 22, 2004 appeal is hereby deemed an appeal to the Attorney General's December 3, 2004 Amended Final Decision;

{¶ 6} 2) The December 3, 2004 decision of the Attorney General is AFFIRMED;

{¶ 7} 3) This claim is remanded to the Attorney General for payment of the \$750.00 award;

{¶ 8} 4) 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;

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

THOMAS H. BAINBRIDGE
Commissioner

CLARK B. WEAVER, SR.
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\1-dld-tad-021805

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

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To S.C. Reporter 5-25-2005