

[Cite as *Caver v. Miami Univ.*, 2004-Ohio-4834.]

IN THE COURT OF CLAIMS OF OHIO

ETTA CAVER :
Plaintiff :
v. : CASE NO. 2004-07301-AD
MIAMI UNIVERSITY : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} 1) On July 13, 2004, plaintiff, Etta Caver, filed a complaint against defendant, Miami University, alleging her automobile window was damaged as a result of negligence on the part of defendant's employee in conducting lawn maintenance activity on University grounds.

{¶2} 2) Plaintiff sought damages in the amount of \$425.00, the total stated cost of a replacement car window, plus \$25.00 for filing fee reimbursement. Plaintiff acknowledged she carries insurance coverage for automotive property damage with a \$100.00 deductible provision.

{¶3} 3) On July 27, 2004, defendant filed an investigation report admitting liability for plaintiff's property damage, but asserting her recovery should be limited to her insurance coverage deductible amount.

CONCLUSIONS OF LAW

{¶4} 1) Defendant was charged with a duty to exercise

reasonable care for the protection of plaintiff's property while performing law maintenance. In regard to the facts of this claim negligence on the part of 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) R.C. 3345.40(B)(2) states in pertinent part:

{¶6} "If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against the state university or college recovered by plaintiff."

{¶7} Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the automotive repair expenses shall be limited to \$100.00, plaintiff's insurance coverage deductible.

{¶8} 3) Plaintiff has suffered damages in the amount of \$100.00, 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.

IN THE COURT OF CLAIMS OF OHIO

ETTA CAVER	:	
Plaintiff	:	
v.	:	CASE NO. 2004-07301-AD
MIAMI UNIVERSITY	:	<u>ENTRY OF ADMINISTRATIVE</u>
Defendant	:	<u>DETERMINATION</u>

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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 \$125.00, 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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Plaintiff, Pro se

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RDK/laa
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