

[Cite as *Parma v. Ohio Bur. of Workers' Comp.*, 2006-Ohio-7136.]

IN THE COURT OF CLAIMS OF OHIO

THE CITY OF PARMA	:	
	:	
Plaintiff	:	
	:	
v.	:	CASE NO. 2005-06341-AD
	:	
OHIO BUREAU OF WORKERS	:	<u>MEMORANDUM DECISION</u>
COMPENSATION	:	
	:	
Defendant	:	

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FINDINGS OF FACT

{¶ 1} On May 3, 2005, plaintiff, the City of Parma, filed a complaint against defendant, Bureau of Workers Compensation. Plaintiff asserts an agent of defendant, while in the course and scope of their employment with defendant, negligently struck a fire hydrant damaging it. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On May 6, 2005, defendant was served with a copy of the form complaint and required to file an investigation report in accordance with R.C. 2743.10(B). On August 2, and August 25, 2005, this court issued entries ordering defendant to file the investigation report. A check of the docket revealed defendant did not comply. On October 11, 2005, a judge of the Court of Claims issued an entry authorizing the deputy clerk to Aorder the appropriate sanctions against defendant including default judgment in favor of plaintiff.@

{¶ 3} On October 28, 2005, defendant filed an investigation report admitting liability for the damage caused to plaintiff=s fire hydrant. However, defendant contends plaintiff=s damage amount is excessive and plaintiff failed to attempt to negotiate an amount of damages with the Ohio Department of Administrative

Services Offices of Risk Management.

{¶ 4} On November 14, 2005, plaintiff filed a response to the defendant=s investigation report. Plaintiff attached correspondence to its response evidencing that, in fact, it had contacted the Office of Risk Management prior to filing suit in the Court of Claims. Furthermore, plaintiff asserts the amount of damages was based on a bill it had to pay the Cleveland Division of Water, the only entity that could make such repairs. Included with the plaintiff=s original filing was a bill from the City of Cleveland Division of Water in the amount of \$1,071.62.

CONCLUSIONS OF LAW

{¶ 5} In regards 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.

{¶ 6} Plaintiff has suffered damages in the amount of \$1,071.62, 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.

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IN THE COURT OF CLAIMS OF OHIO

THE CITY OF PARMA	:	
Plaintiff	:	
v.	:	CASE NO. 2005-06341-AD
OHIO BUREAU OF WORKERS COMPENSATION	:	<u>ENTRY OF ADMINISTRATIVE DETERMINATION</u>
Defendant	:	

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

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 \$1096.62, 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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