

[Cite as *Fischer v. Chillicothe Correctional Inst.*, 2006-Ohio-363.]

IN THE COURT OF CLAIMS OF OHIO

DARRYL E. FISCHER :
Plaintiff :
v. : CASE NO. 2005-09227-AD
CHILLICOTHE CORRECTIONAL : MEMORANDUM DECISION
INSTITUTION :
Defendant :
: : : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Darryl E. Fischer, an inmate incarcerated at defendant, Chillicothe Correctional Institution ("CCI"), stated he was transferred to a segregation unit on June 8, 2005, and his personal property was packed by CCI staff. Plaintiff related his personal clothing items were packed in "a plastic box" and stored in the CCI property vault.

{¶ 2} 2) On or about June 16, 2005, plaintiff was released from segregation and went to the CCI vault to retrieve his stored personal property. According to plaintiff, he examined his returned clothing, and discovered all the articles of clothing were, "soaking wet, faded, and had mold growing on it - whites and colors had been washed together - it was not dried."

{¶ 3} 3) Plaintiff claimed his sweat pants, sweat shirt, gym shorts, three pairs of undershorts, and three t-shirts were essentially destroyed while under the custody and care of CCI staff. Plaintiff filed this complaint seeking to recover \$60.00, the value of his allegedly destroyed clothing items, plus \$1.00, the cost of soap powder to launder, "other salvageable clothes." The filing fee was paid.

{¶ 4} 4) Defendant admitted liability for the damage to

plaintiff's clothes. However, defendant contended plaintiff's clothing items constituted depreciable property and consequently had a value of less than the \$60.00 amount plaintiff claimed. Defendant denied liability for plaintiff's additional damage claim (soap powder).

{¶ 5} 5) In his response to defendant's investigation report, plaintiff insisted his damaged clothing was "band-new never worn." Plaintiff maintained he is entitled to recover the replacement cost of his destroyed clothing.

CONCLUSIONS OF LAW

{¶ 6} 1) In respect to all loss claimed, plaintiff has proven, by a preponderance of the evidence, negligence on the part of defendant. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶ 7} 2) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶ 8} 3) The court finds defendant liable to plaintiff in the amount of \$61.00, 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.

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DARRYL E. FISCHER	:	
Plaintiff	:	
v.	:	CASE NO. 2005-09227-AD
CHILLICOTHE CORRECTIONAL INSTITUTION	:	<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 \$86.00, 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:

Darryl E. Fischer, #404-328
P.O. Box 5500
Chillicothe, Ohio 45601

Plaintiff, Pro se

Gregory C. Trout, Chief Counsel
Department of Rehabilitation
and Correction
1050 Freeway Drive North
Columbus, Ohio 43229

For Defendant

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