

{¶ 3} 3) Defendant denied any liability in this matter. Defendant acknowledged discarding the broken glasses. Defendant stated plaintiff, "was offered an optometrist appointment for a new refraction and new state-issue glasses," but refused this offer.

{¶ 4} 4) Plaintiff filed a response.

CONCLUSIONS OF LAW

{¶ 5} 1) An inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. *Berg v. Belmont Correctional Institution* (1998), 97-09261-AD

{¶ 6} 2) Negligence on the part of defendant has been shown in respect to the loss of plaintiff's eyeglasses. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶ 7} 3) 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. The eyeglasses were not only broken, but depreciable property.

{¶ 8} 4) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶ 9} 5) The standard measure of damages for personal property is market value. *McDonald v. Ohio State Univ. Veterinary Hosp.* (1994), 67 Ohio Misc. 2d 40. Defendant is liable to plaintiff in the amount of \$160.00, the determined value of the destroyed property.

IN THE COURT OF CLAIMS OF OHIO

ROBERT CALHOUN :
Plaintiff :

v. :

CASE NO. 2006-03222-AD

DEPARTMENT OF REHABILITATION :
AND CORRECTIONS :
Defendant :

ENTRY OF ADMINISTRATIVE
DETERMINATION

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

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 \$160.00. 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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Filed 8/17/06

Sent to S.C. reporter 4/5/07 4/5/07