

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

ROBERT S. CALHOUN

Plaintiff

v.

CHILLICOTHE CORRECTIONAL INSTITUTION

Defendant

Case No. 2007-09585-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Robert S. Calhoun, an inmate, filed this complaint against defendant, Chillicothe Correctional Institution (“CCI”), alleging his six compact discs and six cassette tapes were lost incident to a transfer on or about June 26, 2007.

{¶ 2} 2) Plaintiff filed this action seeking to recover \$200.00, the estimated cost of the lost compact discs and cassette tapes. Payment of the filing fee was waived.

{¶ 3} 3) Defendant filed an investigation report admitting liability for plaintiff’s property loss, but disputing plaintiff’s damage claim. Defendant contended plaintiff failed to provide any evidence regarding the fair market value of the lost property. Defendant admitted damages in the amount of \$79.00.

{¶ 4} 4) Plaintiff filed a response asserting his damages in this matter should be calculated in accordance with the replacement cost of new compact discs and new cassette tapes. Plaintiff insisted the replacement cost of the property at issue totals \$200.00.



CONCLUSIONS OF LAW

{¶ 5} 1) Negligence on the part of defendant has been shown in respect to the loss of six cassette tapes and six compact discs. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶ 6} 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, 577 N.E. 2d 160.

{¶ 7} 3) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42, 25 OBR 115, 495 N.E. 2d 462. 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, 658 N.E. 2d 31.

{¶ 8} 4) The standard measure of damages for personal property is market value. *McDonald v. Ohio State Univ. Veterinary Hosp.* (1994), 67 Ohio Misc. 2d 40, 644 N.E. 2d 750. Plaintiff has suffered damages in the amount of \$100.00.

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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 \$100.00. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
9/24
Filed 10/14/08
Sent to S.C. reporter 1/6/09