

# 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

PAUL STEVE HANNAH II

Plaintiff

v.

DEPT. OF REHABILITATION AND CORRECTIONS

Defendant

Case No. 2008-09082-AD

Clerk Miles C. Durfey

## MEMORANDUM DECISION

### FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Paul Steve Hannah II, filed this complaint against defendant, Department of Rehabilitation and Correction (DRC), alleging that his pick-up truck was damaged when it was struck by a riding mower owned by DRC and operated by an inmate under the custody and control of DRC. Plaintiff seeks recovery of damages in the amount of \$779.02, the cost of automotive repair. The filing fee was paid.

{¶ 2} 2) Defendant filed an investigation report admitting liability for plaintiff's loss, but disputing his damage claim. Plaintiff stated in his complaint that he maintains insurance coverage with a \$500.00 deductible provision and he has received \$279.02 from his insurer to cover repair costs for his truck. Defendant asserted that plaintiff's damages should be limited to \$500.00, his actual expense incurred after receiving payment from his insurer, a collateral source.<sup>1</sup> Defendant acknowledged that plaintiff is entitled to recover filing fee costs.

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<sup>1</sup> R.C. 2743.02(D) states, in pertinent part: "Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant."

{¶ 3} 3) On October 2, 2008, plaintiff filed a response to defendant's investigation report stating his agreement with the defendant.

#### CONCLUSIONS OF LAW

{¶ 4} 1) Defendant is charged with a duty to exercise reasonable care for the protection of plaintiff's property while performing any maintenance work. In regard to the facts of this claim, negligence on the part of defendant has been shown. *Caver v. Miami Univ.*, Ct. of Cl. No. 2004-07301-AD, 2004-Ohio-4834; *Trent v. Miami Univ.*, Ct. of Cl. No. 2004-09045, 2004-Ohio-7319; *Maag v. Miami Univ.*, Ct. of Cl. No. 2004-10736-AD, 2005-Ohio-648; *Hoelle V. Miami Univ.*, Ct. of Cl. No. 2005-06970-AD, 2005-Ohio-4643; *Tipton v. Miami Univ.*, Ct. of Cl. No. 2007-06845-AD, 2007-Ohio-7254.

{¶ 5} 2) Plaintiff has suffered damages in the amount of \$500.00, plus the \$25.00 filing fee, which may be reimbursed as compensable costs pursuant to R.C. 2335.19. See *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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Thus, plaintiff's claim for any expense paid by insurance is denied.

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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 \$525.00, which includes the filing fee. Court costs are assessed against defendant.

MILES C. DURFEY  
Clerk

Entry cc:

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RDK/laa  
9/26  
Filed 10/30/08  
Sent to S.C. reporter 1/23/09