

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

KATHARINE SMITH

Plaintiff

v.

MIAMI UNIVERSITY

Defendant

Case No. 2008-10501-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On October 8, 2008, a laptop computer stored in a dormitory room at defendant, Miami University, was destroyed by water damage. The computer was owned by plaintiff, Katharine Smith, the mother of a student attending Miami University.

{¶ 2} 2) Plaintiff filed this complaint seeking to recover \$1,489.95, the total purchase price of the laptop computer at the time of purchase, January 12, 2008. In her complaint, plaintiff acknowledged she maintained insurance coverage on the laptop computer with a \$500.00 deductible provision. Plaintiff also acknowledged she received payment from her insurer as a result of the October 8, 2008 damage incident. The filing fee was waived.

{¶ 3} 3) Defendant admitted liability in this action and contended plaintiff's damages should be limited by any available collateral source recovery.

CONCLUSIONS OF LAW

{¶ 4} 1) Defendant, by exercising control over the piping system in the student housing facility, was under a duty to maintain the system in good and safe

working order. *Mosebach v. Miami University of Ohio* (1990), 90-02431-AD; *Chetsko v. Miami Univ.*, Ct. of Cl. No. 2007-03960-AD, 2007-Ohio-4395.

{¶ 5} 2) Negligence on the part of defendant has been proven in respect to breaching inspection and maintenance duties. *Krukar v. Bowling Green State University* (1991), 91-04934-AD; *Schlemmer v. Bowling Green State University* (1997), 97-05479-AD; *Philip v. Miami University* (2000), 99-15056-AD.

{¶ 6} 3) R.C. 3345.40(B)(2) states in pertinent part:

{¶ 7} “If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of benefits shall be deducted from any award against the state university or college recovered by plaintiff.”

{¶ 8} Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the replacement cost of the laptop is subject to available collateral sources.

{¶ 9} 4) Plaintiff has suffered damages in the amount of \$500.00. The \$25.00 filing fee 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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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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
1/27
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