

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

CAITLIN K. NEYER

Plaintiff

v.

MIAMI UNIVERSITY

Defendant

Case No. 2010-01972-AD

Clerk Miles C. Durfey

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On January 19, 2010, plaintiff, Caitlin K. Neyer, sustained damage to her eyeglasses as a result of negligence on the part of an employee of defendant, Miami University, in conducting maintenance activity on university grounds.

{¶ 2} 2) Plaintiff filed this complaint seeking to recover damages in the amount of \$346.66 for replacement eyeglasses, plus \$34.00 for transportation expenses (mileage) to obtain her eyeglasses in Cincinnati and then return to Miami University. The \$25.00 filing fee was paid and plaintiff requested reimbursement of that cost in addition to her claimed damages.

{¶ 3} 3) Defendant filed an investigation report noting that “[t]he [d]efendant believes that the [p]laintiff has a valid claim for the eyeglasses costing \$346.66 and reimbursement of the \$25.00 court filing fee for a total claim of \$371.66.” Defendant disputed plaintiff’s claim for transportation expenses observing that “there are two Ophthalmologists, two Optometrists and an Optician in Oxford, all of which could have been reached by the University owned transportation service at no cost to the Plaintiff.”

{¶ 4} 4) Plaintiff filed a response insisting that her claim for transportation expenses is valid due to the circumstances presented. Plaintiff pointed out that she needed replacement eyeglasses quickly and did not want to incur additional expenses in connection with obtaining a new eye examination.

CONCLUSIONS OF LAW

{¶ 5} 1) Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property while performing any maintenance work. *Hoelle v. Miami Univ.*, Ct. of Cl. No. 2005-06970-AD, 2005-Ohio-4643. In regards to the facts of this claim, negligence on the part of defendant has been shown. *Rust v. Miami Univ.*, Ct. of Cl. No. 2005-01226-AD, 2005-Ohio-1248; *Dunlap v. Ohio Univ.*, Ct. of Cl. No. 2009-06010-AD, 2009-Ohio-7081.

{¶ 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) Plaintiff has suffered damages in the amount of \$380.66. 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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MEMORANDUM DECISION

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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 \$405.66, which includes the filing fee. Court costs are assessed against defendant.

MILES C. DURFEY
Clerk

Entry cc:

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2/23
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