

[Cite as *Rodecker v. Ohio Dept. of Natural Resources*, 2016-Ohio-5060.]

KIM RODECKER

Plaintiff

v.

DEPARTMENT OF NATURAL  
RESOURCES

Defendant

Case No. 2015-00983-AD

Clerk Mark H. Reed

MEMORANDUM DECISION

{¶1} Plaintiff Kim Rodecker (hereinafter “plaintiff”) filed a claim in this Court against the Ohio Department of Natural Resources (hereinafter “ODNR”). In her claim, the plaintiff alleged the following:

{¶2} On July 9, 2015, plaintiff rented a cottage at Pymatuning State Park. As plaintiff pulled her van into the designated parking space for the cabin, her van struck a piece of concrete rebar that was sticking above the parking space bumper pad. When plaintiff backed out of the parking space, the rebar ripped the bumper loose from her car causing damage to her vehicle.

{¶3} In support of her claim, plaintiff included an estimate to repair her vehicle in the amount of \$1,623.29. Plaintiff now seeks damages in this amount as well as reimbursement for the \$25.00 filing fee paid in pursuing this claim. Plaintiff denies that she has insurance coverage available for this type of loss.

{¶4} On February 3, 2016, defendant ODNR filed an investigation report in response to plaintiff’s claim. In this report, ODNR did not dispute the essential facts of the case as set out in plaintiff’s complaint. Instead ODNR argues that as the plaintiff was a business invitee under Ohio law, that same law does not require ODNR to warn an invitee against any open and obvious danger, which would by necessity include hazards like the rebar pipe in the concrete bumper pad at Pymatuning State Park. It is ODNR’s position that the protruding rebar pipe was in plain view of the plaintiff as she

was maneuvering her vehicle into the parking space and that her failure to stop soon enough to avoid striking the rebar was in fact due to her own negligence rather than any act of negligence on the part of ODNR.

{¶5} In this claim the Court is persuaded, especially after looking at the photographs submitted by ODNR, that the rebar struck by the plaintiff was clearly an open and obvious hazard as contemplated under Ohio law, and one that a reasonably cautious driver could and should have avoided. Plaintiff’s damages are in fact the result of her own failure to stop her vehicle timely and not by any act of negligence on the part of ODNR. To find for the plaintiff would require this Court to act contrary to established Ohio law. That is a step that this Court is unwilling to take.

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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 defendant. Court costs are absorbed by the Court.

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MARK H. REED

Case No. 2015-00983-AD

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MEMORANDUM DECISION

Clerk

Entry cc:

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