

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE:	JONI K. LEIFER	:	Case No. V2001-31104
	JONI K. LEIFER	:	<u>ORDER OF A THREE-</u>
	Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} On October 11, 2000, the applicant filed a reparations application seeking reimbursement for expenses incurred in relation to a October 13, 1998 domestic violence incident. On January 30, 2001, the Attorney General issued a Finding of Fact and Decision denying the claim contending that the applicant failed to submit proof of economic loss. On February 5, 2001, the applicant filed a request for reconsideration. On March 8, 2001, the Attorney General issued a Final Decision denying the claim again. On March 19, 2001, the applicant filed an appeal of the Attorney General’s March 8, 2001 Final Decision.

{¶2} On March 21, 2001, the applicant filed a supplemental compensation application. On September 18, 2001, the Attorney General issued a Finding of Fact and Decision granting the applicant an award in the amount of \$1,668.52 for unreimbursed allowable expense of which \$1,202.42 represented civil protection order fees. On October 18, 2001, the applicant filed a request for reconsideration. On February 6, 2002, the Attorney General issued a Final Decision indicating that no modification of the previous decision was warranted. On March 7, 2002, the applicant filed an appeal of the Attorney General’s February 6, 2002 decision. On August 23,

2002, the Attorney General filed a Status Memorandum indicating that the applicant filed a reparations application on behalf of her minor son, which may impact this claim. On December 16, 2002, the Attorney General filed another Status Memorandum indicating that the applicant was awarded \$1,575.25 in allowable expense under her minor son's claim (V03-40348). On March 28, 2003, the Attorney General filed an additional Status Memorandum indicating that the \$945.00 attorney fee expense was granted to the applicant under her minor son's claim. On May 28, 2003, the Attorney General filed a Brief stating that he was unable to award the applicant the \$945.00 attorney fee expense until he knows the purpose of the expense. Hence, these appeals came to be heard before a three commissioner panel on August 7, 2003 at 11:15 A.M.

{¶3} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for this panel's consideration. At the hearing, applicant's counsel indicated that the only issues on appeal are: (1) the \$945.00 attorney fee expense and (2) a purported \$100.96 medical bill.

{¶4} Joni Leifer testified that the \$945.00 attorney fee expense was incurred between October 8, 1998 and October 14, 1998. Ms. Leifer explained that on October 8, 1998 she was assaulted by her former husband. In light of the assault, Ms. Leifer indicated that she made an appointment for October 13, 1998 to meet with counsel in order to discuss a civil protection order, divorce, and custody matters. Ms. Leifer, however, stated that she was assaulted again on October 13, 1998 and hence sought immediate protection the next day at the Massillon and Canton courthouses with counsel.

{¶5} Douglas Kern, an Assistant Attorney General, briefly testified concerning his experience as a former Clark County Prosecutor. Mr. Kerns explained the process of obtaining protection orders in Clark County.

{¶6} Attorney Recupero, applicant's counsel, was called as a witness by the panel. Attorney Recupero suggested that all the October 13, 1998 and October 14, 1998 charges listed on his bill relate to the protection of the applicant. Attorney Recupero also stated that his bill is not inclusive of all the time he spent on the applicant's case.

{¶7} Applicant's counsel argued that the entire \$945.00 attorney fee expense is reimbursable. Counsel also asserted that the \$100.96 medical expense should be reimbursed to the applicant. However, the Assistant Attorney General argued that, of the \$945.00 attorney fee expense, only that time incurred with respect to the civil protection order is reimbursable. The Assistant Attorney General also indicated that she is unaware of any \$100.96 medical bill. Accordingly, the Assistant Attorney General asserted that further investigation is required with respect to the \$100.96 expense.

{¶8} From review of the file and with full and careful consideration of all the information presented at the hearing, this panel makes the following determination. We find that the applicant incurred additional allowable expense in the amount of \$945.00. We believe that the applicant and the applicant's attorney sufficiently explained the reasonableness of the \$945.00 attorney fee charge in relation to the criminally injurious conduct. However, we believe the newly raised medical expense claim warrants further investigation. Therefore, the March 8, 2001 decision of the Attorney General shall be affirmed. However, the February 6, 2002 decision of the Attorney General shall be reversed and the applicant shall be awarded \$945.00 in

allowable expense. This claim shall be remanded to the Attorney General for investigation and decision with respect to the \$100.96 medical expense.

{¶9} IT IS THEREFORE ORDERED THAT

{¶10} 1) The March 8, 2001 decision of the Attorney General shall be AFFIRMED;

{¶11} 2) The February 6, 2002 decision of the Attorney General shall be REVERSED and judgment rendered in favor of the applicant in the amount of \$945.00;

{¶12} 3) The case shall be remanded to the Attorney General for payment of the award and for further investigation and decision with respect to the applicant's purported \$100.96 medical expense claim;

{¶13} 4) This order is entered without prejudice to the applicant's right to file a supplemental compensation application pursuant to R.C. 2743.68;

{¶14} 5) Costs are assumed by the court of claims victims of crime fund.

CLARK B. WEAVER, SR.
Commissioner

DALE A. THOMPSON
Commissioner

ASHER W. SWEENEY
Commissioner