

[Cite as *In re James*, 2003-Ohio-5505.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: RONALD R. JAMES, JR.	:	Case No. V2003-40364
RONALD R. JAMES, JR.	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} This appeal came to be heard before this panel of three commissioners on July 24, 2003 at 11:50 A.M. upon the applicant’s April 28, 2003 appeal from the April 14, 2003 Final Decision of the Attorney General.

{¶2} Originally, the Attorney General granted the applicant an award of reparations in the amount of \$1,638.71 for unreimbursed work loss incurred from November 25, 2001 through March 31, 2002. On reconsideration, the Attorney General modified his previous decision and granted the applicant an award in the amount of \$3,068.83 for the same time period. The applicant appealed the Attorney General’s Final Decision contending that he is owed additional gross overtime work loss in the amount of \$7,074.00.

{¶3} Neither the applicant nor anyone on his behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments for this panel’s consideration. The Assistant Attorney General contended that applicant’s counsel utilized a different sample of the applicant’s work history in order to secure a higher overtime work loss

amount. The Assistant Attorney General indicated she used, as is commonly practiced by her office, the six week window just prior to the criminally injurious conduct to calculate the applicant's overtime work loss. The Assistant Attorney General asserted that using a time period closer to the criminally injurious conduct provides a more accurate reflection of available overtime to the applicant. After a brief discussion of the claim, the panel chairman concluded the hearing.

{¶4} From review of the file and with full and careful consideration given to all the information presented at the hearing, this panel makes the following determination. We find that the applicant's work loss calculations are reasonable since it provides information concerning the pattern of available overtime over a wider spectrum of time, in light of the applicant's 18 week disability period. However, we note that the applicant's calculation of \$7,074.00 is a gross figure instead of net. See In re Eader (1982), 70 Ohio Misc. 2d 17. Therefore, the April 14, 2003 decision of the Attorney General shall be modified to grant the applicant a *net work loss* award based on the applicant's calculations. This case shall be remanded to the Attorney General for calculation, decision, and payment of the award based on the above findings.

{¶5} IT IS THEREFORE ORDERED THAT

{¶6} 1) The April 14, 2003 decision of the Attorney General is MODIFIED to render additional unreimbursed work loss to the applicant;

{¶7} 2) This claim is remanded to the Attorney General for work loss calculations, decision and payment of the award in light of the above findings;

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

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

KARL H. SCHNEIDER
Commissioner

LEO P. MORLEY
Commissioner

JAMES H. HEWITT III
Commissioner