

[Cite as *In re Nicholson*, 2004-Ohio-4603.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: CAROLYN A. NICHOLSON	:	Case No. V2004-60156
CAROLYN A. NICHOLSON	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>

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{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to a June 11, 2003 aggravated burglary incident. On October 28, 2003, the Attorney General denied the applicant’s claim pursuant to R.C. 2743.60(D) contending that all the applicant’s economic loss had been or may be recouped from a collateral source, namely Medicaid. On November 10, 2003, the applicant filed a request for reconsideration. On January 27, 2004, the Attorney General denied the claim once again. On February 5, 2004, the applicant filed a notice of appeal to the Attorney General’s January 27, 2004 Final Decision. On March 29, 2004, the Attorney General filed a Statement in Lieu of Brief recommending the Final Decision be affirmed since the applicant was not working at the time of the criminally injurious conduct (she was on disability) and because the counseling expenses incurred with Dr. Martin

are not related to the criminally injurious conduct. Hence, this matter came to be heard before this panel of three commissioners on May 5, 2004 at 10:30 A.M.

{¶2} The *pro se* applicant and an Assistant Attorney General attended the hearing and presented testimony and brief comments for the panel's consideration. Ms. Nicholson essentially testified that she did not directly incur any economic loss as a result of the criminally injurious conduct. Ms. Nicholson stated that she was not employed at the time of the criminally injurious conduct because she has been on disability since February 2001 and that her medical bills, including those incurred with Dr. Martin, are covered by Medicaid. Ms. Nicholson indicated that she seeks compensation because she has suffered severe financial problems since the burglary. However, Ms. Nicholson was unable to relate her financial loss to the criminally injurious conduct.

{¶3} 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 has failed to prove, by a preponderance of the evidence, that she incurred economic loss as a result of the criminally injurious conduct. Therefore, the January 27, 2004 Final Decision of the Attorney General shall be affirmed without prejudice. Should the applicant obtain evidence of incurred economic loss that would be an appropriate basis for filing a supplemental compensation application.

{¶4} IT IS THEREFORE ORDERED THAT

- 1) The January 27, 2004 decision of the Attorney General is AFFIRMED without prejudice;
- 2) This claim is DENIED and judgment is rendered in favor of the state of Ohio;

3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

4) Costs are assumed by the court of claims victims of crime fund.

CLARK B. WEAVER, SR.
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

JAMES H. HEWITT III
Commissioner

ID #\1-dld-tad-052504

A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Stark County Prosecuting Attorney and to:

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