

[Cite as *Spirko v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-4642.]

IN THE COURT OF CLAIMS OF OHIO

JOHN SPIRKO, #A171-433 :
P.O. Box 788 :
Mansfield, Ohio 44901 : Case No. 2002-05557-AD

Plaintiff : MEMORANDUM DECISION

v. :

DEPT. OF REHABILITATION AND :
CORRECTIONS :

Defendant :

: : : : : : : : : : : : : : : : : :

For Defendant: Margaret Bagley, Warden
Mansfield Correctional Institution
1000 North Main Street
Mansfield, Ohio 44903

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On June 6, 2002, plaintiff, John Spirko, filed a complaint against defendant, Department of Rehabilitation and Correction, alleging his typewriter and typing supplies were lost while under defendant's control. Plaintiff seeks damages in the amount of \$252.81. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On June 6, 2002, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$252.81.

{¶4} THE COURT CONCLUDES THAT

{¶5} 1) I find, by a preponderance of the evidence, negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National*

Guard (1979), 78-0342-AD;

{¶6} 2) Plaintiff has suffered damages in the amount of \$252.81, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

{¶7} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶8} IT IS ORDERED THAT:

{¶9} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶10} 2) Defendant (Department of Rehabilitation and Correction) pay plaintiff (John Spirko) \$277.81 and such interest as is allowed by law;

{¶11} 3) The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
6/10
Filed 7/3/02
Jr. Vol. 710, Pg. 129
Sent to S.C. reporter 9/4/02