

IN THE COURT OF CLAIMS OF OHIO

JIM B. DOZIER, #163-081 :
P.O. Box 4571 :
Lima, Ohio 45802 : Case No. 2002-04798-AD

Plaintiff : MEMORANDUM DECISION

v. :

LIMA CORRECTIONAL INSTITUTION :

Defendant :

.....

For Defendant: Gregory C. Trout, Chief Counsel
Department of Rehabilitation and
Correction
1050 Freeway North
Columbus, Ohio 43229

.....

FINDINGS OF FACT

{¶1} 1) On or about September 25, 2001, a television set owned by plaintiff, Jim B. Dozier, an inmate, was damaged while under the care of personnel of defendant, Lima Correctional Institution. Specifically, the chasis on the television set was broken. The damage to the set did not inhibit or interfere with the operation of the electronic device.

{¶2} 2) Plaintiff filed this complaint seeking to recover \$200.00, the estimated total replacement cost of the television set. Plaintiff submitted the filing fee with the complaint.

{¶3} 3) Defendant acknowledged the television set was damaged while under the control of institution staff. However, defendant has disputed plaintiff's damage claim as excessive. Defendant related the set was not totally damaged. Defendant indicated the set was over nine years

old when damaged. Defendant admitted damages in the amount of \$60.00.

{¶4} 4) Plaintiff filed a response stating the court should determine adequate damages in this claim.

CONCLUSIONS OF LAW

{¶5} 1) The court finds, by a preponderance of the evidence, negligence by the 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) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶7} 3) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶8} 4) Defendant is liable to plaintiff in the amount of \$60.00, 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.

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

{¶10} IT IS ORDERED THAT:

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

{¶12} 2) Defendant (Lima Correctional Institution) pay plaintiff (Jim B. Dozier) \$85.00 and such interest as is allowed by law;

{¶13} 3) Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk