

IN THE COURT OF CLAIMS OF OHIO

DARRYL E. FISCHER, #404-328 :
P.O. Box 5500 :
Chillicothe, Ohio 45601 : Case No. 2002-08173-AD

Plaintiff : MEMORANDUM DECISION

v. :

CHILLICOTHE CORRECTIONAL :
INSTITUTION :

Defendant :

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

For Defendant: James L. Erwin, Warden
Chillicothe Correctional Institution
P.O. Box 5500
Chillicothe, Ohio 45601
: : : : : : : : : : : : : : :

{¶1} THE COURT FINDS THAT:

{¶2} 1) On September 9, 2002, plaintiff, Darryl Fischer, filed a complaint against defendant, Chillicothe Correctional Institution, alleging his shirt was damaged while under the control of defendant's personnel. Plaintiff seeks damages in the amount of \$10.00 for property loss. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On September 9, 2002, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$10.00 for property loss.

{¶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 \$10.00, 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.

{¶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 (Chillicothe Correctional Institution) pay plaintiff (Darryl E. Fischer) \$35.00 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
10/8
Filed 10/31/02
Jr. Vol. 723, Pg. 159
Sent to S.C. reporter 10/31/02