

[Cite as *Harris v. Ohio Dept. of Rehab. & Corr.*, 2003-Ohio-3896.]

IN THE COURT OF CLAIMS OF OHIO

FREDERICK HARRIS	:	
Plaintiff	:	
v.	:	CASE NO. 2003-02888-AD
DEPT. OF REHABILITATION AND CORRECTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	

FINDINGS OF FACT

{¶1} 1) Plaintiff, Frederick Harris, an inmate incarcerated at defendant's Southern Ohio Correctional Facility (SOCF), has alleged that on November 20, 2002, an employee of SOCF damaged his television set.

{¶2} 2) Consequently, plaintiff filed this complaint seeking to recover \$204.00, the estimated value of the television set, plus \$25.00 for filing fee reimbursement.

{¶3} 3) Defendant admitted liability for the damage to plaintiff's television set. However, defendant contended plaintiff's damage claim is inflated since the damaged set was depreciable property.

{¶4} 4) Plaintiff related he purchased the television set for \$234.55 on June 20, 2001. The television set was approximately seventeen months old at the time it was damaged by defendant's employee.

CONCLUSIONS OF LAW

{¶5} 1) Negligence on the part of defendant has been shown in respect to the damaged television. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶6} 2) The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42.

{¶7} 3) Where the existence of damage is established, the evidence need only

tend to show the basis for the computation of damages to a fair degree of probability. *Brewer v. Brothers* (1992), 82 Ohio App. 3d 148. Only 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) The court finds defendant liable to plaintiff in the amount of \$175.00, 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, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$200.00, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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For Defendant

RDK/laa
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