

[Cite as *Smith v. Marion Correctional Inst.*, 2003-Ohio-4922.]

IN THE COURT OF CLAIMS OF OHIO

TONY SMITH :

Plaintiff :

v. :

CASE NO. 2003-05054-AD

MARION CORRECTIONAL :

MEMORANDUM
DECISION

INSTITUTION :

Defendant :

.....

{¶1} THE COURT FINDS THAT:

{¶2} 1) On April 18, 2003, plaintiff, Tony Smith, filed a complaint against defendant, Marion Correctional Institution, alleging his typewriter was damaged while under defendant's control. Plaintiff seeks damages in the amount of \$93.00 for property loss, plus \$25.00 for filing fee reimbursement. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On July 25, 2003, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$93.00 for property loss, plus \$25.00 for filing fee reimbursement;

{¶4} 3) Plaintiff filed a response.

{¶5} THE COURT CONCLUDES THAT:

{¶6} 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;

{¶7} 2) Plaintiff has suffered damages in the amount of \$93.00, 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.

{¶8} 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 \$118.00, 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:

Tony Smith, #367-391
P.O. Box 57
Marion, Ohio 43301

Plaintiff, Pro se

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For Defendant

RDK/laa
8/15
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