

[Cite as *Blake v. Pymatuning State Park*, 2003-Ohio-7129.]

IN THE COURT OF CLAIMS OF OHIO

RONALD D. BLAKE :  
Plaintiff :  
v. : CASE NO. 2003-07880-AD  
PYMATUNING STATE PARK : MEMORANDUM DECISION  
Defendant :

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FINDINGS OF FACT

{¶1} 1) On May 12, 2003, plaintiff, Ronald D. Blake, sustained property damage to his travel trailer when the vehicle was struck by debris thrown from a lawn mower operated by an employee of defendant, Pymatuning State Park.

{¶2} 2) Plaintiff filed this complaint seeking to recover \$608.44, the total cost of vehicle repair resulting from the May 12, 2003 incident.

{¶3} 3) Defendant admitting liability for plaintiff's property loss, but disputed plaintiff's damage claimed. Defendant contended plaintiff's damages should be limited to recovery of the \$25.00 filing fee since plaintiff carries insurance coverage for repairs to his vehicle. Plaintiff stated he has not received any money from his insurance carrier to pay for the cost of repairs to his travel trailer.

CONCLUSIONS OF LAW

{¶4} 1) Negligence on the part of defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶5} 2) R.C. 2743.02(D) states in pertinent part:

{¶6} "Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant."

{¶7} In order for this statutory provision to apply, a claimant must actually receive collateral recovery. No evidence has supported the contention plaintiff actually received insurance proceeds for his damages resulting from the October 12, 2003 incident.

{¶8} 3) Plaintiff has suffered damages in the amount of \$608.44, 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 \$633.44, 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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