

[Cite as *Pinkney v. Ohio State Univ. Hosp.*, 2003-Ohio-7131.]

IN THE COURT OF CLAIMS OF OHIO

JAMES PINKNEY	:	
Plaintiff	:	
v.	:	CASE NO. 2003-08398-AD
OSU HOSPITAL	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

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

FINDINGS OF FACT

{¶1} 1) On May 24, 2003, plaintiff, James Pinkney, was admitted as a patient to defendant, Ohio State University Medical Center. Plaintiff was assigned a bed in a room at defendant's medical center.

{¶2} 2) He related he was provided with breakfast during the morning hours of May 25, 2003. At some time during the breakfast period, plaintiff placed his dentures in an empty cereal bowl setting on a table in his hospital room. When plaintiff was finished eating breakfast, an employee of defendant came into the room and removed the tray containing the remnants of plaintiff's breakfast along with the cereal bowl containing plaintiff's dentures. The dentures were never returned to plaintiff after being removed by defendant's employee.

{¶3} 3) Consequently, plaintiff filed this complaint seeking to recover \$870.00, the replacement cost of his dentures, plus \$25.00 for filing fee reimbursement. Plaintiff has asserted defendant is responsible for the loss of his dentures.

{¶4} 4) Defendant denied any liability in this matter. Defendant related plaintiff inserted his dentures into an empty cereal box and placed the cereal box on his food tray. Defendant's staff subsequently removed the food tray from plaintiff's hospital room.

Apparently, the cereal box containing the dentures was discarded by defendant's personnel. Defendant denied plaintiff's dentures were lost as a proximate cause of any negligence on the part of Ohio State University Hospitals. Defendant asserted plaintiff's own negligence was the sole cause of the property loss claimed since plaintiff chose to place his dentures inside a cereal box rather than using a provided denture cup for storage.

Furthermore, defendant suggested plaintiff's actions regarding his dentures constituted an abandonment and, therefore, he has no right to assert a claim for abandoned property. Additionally, defendant denied any liability under a bailment theory. Defendant contended a bailment did not occur since the elements of a bailment relationship were not satisfied under the facts of the instant claim.

CONCLUSIONS OF LAW

{¶5} When defendant's employee took possession of the cereal box or cereal bowl containing plaintiff's dentures, a bailment relationship was created between defendant and plaintiff. See *Green v. Ohio State Univ. Hospital* (1982), 82-01367; *Goddard v. University Hospital* (1989), 89-02776-AD; *Leech v. Ohio state Univ. Hosp.* (1989), 61 Ohio Misc. 2d 379. By discarding the container which held plaintiff's dentures defendant breached the bailment duty owed to plaintiff. Consequently, defendant is liable to plaintiff for all damages claimed, including the filing fee.

{¶6} 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 \$895.00, 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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Plaintiff, Pro se

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RDK/laa
11/24
Filed 12/9/03
Sent to S.C. reporter 12/29/03