

[Cite as *Tyler v. Ohio Dept. of Rehab. & Corr.*, 2003-Ohio-7298.]

IN THE COURT OF CLAIMS OF OHIO

DAVID B. TYLER	:	
Plaintiff	:	
v.	:	CASE NO. 2003-08355-AD
DEPARTMENT OF REHABILITATION AND CORRECTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	

FINDINGS OF FACT

{¶1} 1) On July 28, 2003, plaintiff, David Tyler, filed a complaint against defendant, Department of Rehabilitation and Correction. On May 30, 2003, he was transferred to an isolation unit.

{¶2} 2) Incident to plaintiff's transfer, his personal property was inventoried, packed, and delivered into defendant's custody.

{¶3} 3) Plaintiff asserts his personal trash can and Tide laundry detergent was lost while under defendant's control. Plaintiff seeks \$7.25, the alleged value of the missing property. Plaintiff submitted the filing fee with the complaint.

{¶4} 4) Defendant filed an investigation report asserting it never received plaintiff's trash can and contending the laundry detergent was not lost while it was in defendant's control.

{¶5} 5) On November 4, 2003, plaintiff filed a request for an extension of time to file a response to defendant's investigation report.

{¶6} 6) On November 14, 2003, plaintiff filed a response to defendant's investigation report. Plaintiff asserts that he has had conversation with defendant's agents Officer C. Brown and the vault supervisor who admit packing plaintiff's trash can and

laundry detergent.

{¶7} 7) On November 17, 2003, defendant filed a motion to amend the investigation report. Defendant conducted an additional investigation which revealed the trash can was packed and subsequently lost and the laundry detergent was spilled. Accordingly, defendant admits liability for the loss of plaintiff's property.

CONCLUSIONS OF LAW

{¶8} 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.

{¶9} 2) Plaintiff has suffered damages in the amount of \$7.25, 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.

{¶10} Plaintiff's motion for extension of time is MOOT. Defendant's motion to amend the investigation report is GRANTED. 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 \$32.25, 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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Filed 12/17/03

Sent to S.C. reporter 1/9/04