

[Cite as *Miller v. Bd. of Motor Vehicles*, 2004-Ohio-4599.]

IN THE COURT OF CLAIMS OF OHIO

TIMOTHY J. MILLER :
Plaintiff :
v. : CASE NO. 2003-08738-AD
BOARD OF MOTOR VEHICLES : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} On July 24, 2002, plaintiff, Timothy J. Miller, was convicted in the Chillicothe Municipal Court of speeding and a seat belt law violation. Plaintiff had been charged with these offenses on February 21, 2002. At the time plaintiff was charged, he failed to submit proof of insurance coverage (financial responsibility) as required by law.

{¶2} On August 14, 2002, defendant, Bureau of Motor Vehicles (BMV), sent plaintiff a notice informing him that his driver’s license was to be suspended effective, September 12, 2002. This suspension was based upon plaintiff’s failure to show proof of financial responsibility.

{¶3} On July 7, 2003, plaintiff showed proof of financial responsibility and BMV deleted the September 13, 2002, license suspension from its records.

{¶4} Plaintiff related his car was towed and impounded at some undetermined time, presumably based on his failure to show proof of financial responsibility and thereby maintaining a valid driver’s license status. Plaintiff stated he provided proof of insurance to BMV on July 7, 2002. Plaintiff did not produce any evidence to establish he provided proof of financial responsibility on July 7, 2002. Plaintiff filed this complaint seeking to recover \$160.00 for towing and impound fees he was assessed at some unspecified time. On August 7, 2003, plaintiff submitted a written document to this court insisting he could not afford to pay the requisite filing fee due to being

unemployed. Subsequently, plaintiff was excused from paying the filing fee.

{¶5} Plaintiff alleged his car was towed as a proximate result of negligence on the part of defendant in erroneously listing his driver's license as suspended. Records show plaintiff was charged on July 4, 2003, with speeding and was subsequently convicted of that offense in the Xenia Municipal Court.

{¶6} Defendant submitted evidence showing plaintiff's license was suspended on September 13, 2002. This suspension was deleted on July 7, 2003.

CONCLUSIONS OF LAW

{¶7} Monetary damages are recoverable when it is established, by a preponderance of the evidence, defendant erroneously listed plaintiff's driver's license as suspended. *Ankney v. Bureau of Motor Vehicles* (1998), 97-11045-AD; *Serbanescu v. Bureau of Motor Vehicles* (1994), 93-15038-AD; *Black v. Bureau of Motor Vehicles* (1996), 95-01441-AD. In the instant action, plaintiff has failed to prove that defendant erroneously recorded his driver's license status. Plaintiff's failure to notify defendant of proof of financial responsibility resulted in his license listed as under suspension. Evidence indicates defendant's records were accurate under the circumstances when plaintiff's cause of action accrued. *Elliott v. Bureau of Motor Vehicles* (2001), 2001-02104-AD, jud.

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IN THE COURT OF CLAIMS OF OHIO

TIMOTHY J. MILLER :
Plaintiff :
v. : CASE NO. 2003-08738-AD
BOARD OF MOTOR VEHICLES : ENTRY OF ADMINISTRATIVE
Defendant : DETERMINATION

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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 defendant. Court costs are assessed against plaintiff. 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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