

IN THE COURT OF CLAIMS OF OHIO

PATRICIA VENTURA :

Plaintiff :

V. :

CASE NO. 2004-06640-AD

OHIO DEPT. OF TRANSPORTATION :

ENTRY OF DISMISSAL

Defendant :

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{¶ 1} On June 17, 2004, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on June 9, 2004, while traveling under the Rockside Road Bridge on Interstate 271 in Bedford Heights, Ohio, an object struck her windshield causing damage. Plaintiff asserts construction work was being performed on the bridge at the time of the incident. Plaintiff seeks reimbursement for windshield replacement in the amount of \$259.20 from the defendant. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On August 5, 2004, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “Defendant asserts it is not responsible for the maintenance of I-271 under the Rockside Road Bridge in Bedford Heights, Ohio. On August 2, 1965, the Ohio Department of Transportation signed an Ordinance with the City of Bedford Heights for maintenance services of I-80 and I-271 (See Exhibit A). This agreement is still in affect.

{¶ 4} “Defendant asserts that pursuant to the agreement between the Ohio Department of Transportation and the City of Bedford Heights, the City of Bedford Heights, and not the defendant, is responsible for maintaining the roadway upon which plaintiff’s incident occurred, that being on I-271 under the Rockside Road Bridge, within the City of Bedford Heights.”

{¶ 5} Plaintiff has not responded to defendant's motion to dismiss.

[Cite as *Ventura v. Ohio Dept. of Transp.*, 2004-Ohio-5145.]

{¶ 6} The site of plaintiff's incident was within the city limits of Bedford Heights.

{¶ 7} An ordinance was passed by the City of Bedford Heights and became effective on July 20, 1965. The ordinance in pertinent part stated:

{¶ 8} "NOW, THEREFORE, Be It Ordained by the Council of the City of Bedford Heights, Ohio:

{¶ 9} "SECTION 2: That the city hereby proposes to cooperate with the State of Ohio and will bear the cost, and

{¶ 10} "(b) Maintain and repair the wearing surface on bridges carrying municipal streets over the interstate highway when such wearing surface is separate from the bridge floor slab. Changes in type of depth of wearing surface will not be permitted without prior approval by the State."

{¶ 11} The site of the damage causing incident, the Rockside Road Bridge, was not the maintenance responsibility of defendant. Consequently, plaintiff's case is DISMISSED.

{¶ 12} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. The court shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Patricia Ventura
9835 Memphis Avenue #12
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Plaintiff, Pro se

Thomas P. Pannett, P.E.
Assistant Legal Counsel
Department of Transportation

Defendant

[Cite as *Ventura v. Ohio Dept. of Transp.*, 2004-Ohio-5145.]

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DRB/laa

8/23

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