

[Cite as *King v. Ross Correctional Inst.*, 2004-Ohio-5151.]

IN THE COURT OF CLAIMS OF OHIO

GERALD T. KING	:	
Plaintiff	:	
v.	:	CASE NO. 2003-12352-AD
ROSS CORRECTIONAL INSTITUTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

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FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Gerald T. King, an inmate incarcerated at defendant, Ross Correctional Institution (RCI), has alleged that on or about October 31, 2003, his television set was lost while under the custody and care of RCI staff.

{¶ 2} 2) Consequently, plaintiff filed this complaint seeking to recover \$179.00, the stated replacement cost of a replacement television set. The requisite material \$25.00 filing fee was paid.

{¶ 3} 3) Defendant admitted liability for the loss of plaintiff's television set. Defendant related, "[t]he replacement value for this type of television is in the range of \$130.00 to \$199.99." Evidence has shown plaintiff received a title for his television set upon his arrival at RCI on October 19, 2001. The set was at least two years old at the time it was lost.

{¶ 4} 4) Plaintiff reasserted his television set was worth \$179.00 on October 31, 2003.<sup>1</sup> The trier of fact disagrees.

CONCLUSIONS OF LAW

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<sup>1</sup> Plaintiff filed a response on August 23, 2004.

{¶ 5} 1) Negligence on the part of defendant has been shown in respect to the damaged television. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶ 6} 2) The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42.

{¶ 7} 3) Where the existence of damage is established, the evidence need only tend to show the basis for the computation of damages to a fair degree of probability. *Brewer v. Brothers* (1992), 82 Ohio App. 3d 148. Only reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶ 8} 4) The court finds defendant liable to plaintiff in the amount of \$125.00, 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.

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GERALD T. KING

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CASE NO. 2003-12352-AD

ROSS CORRECTIONAL INSTITUTION

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ENTRY OF ADMINISTRATIVE  
DETERMINATION

Defendant

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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 plaintiff in the amount of \$150.00, 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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For Defendant

RDK/laa  
8/24  
Filed 9/2/04  
Sent to S.C. reporter 9/27/04