

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: DAVID S. LEMIEUX	:	Case No. V2004-60920
DAVID S. LEMIEUX	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶ 1} On April 7, 2004, the applicant filed a supplemental reparations application seeking reimbursement of expenses incurred with respect to an August 24, 2003 assault. On July 26, 2004, the Attorney General granted the applicant an additional award of reparations in the amount of \$3,089.50 for unreimbursed allowable expense. However, the Attorney General denied the applicant's claim for work loss pursuant to R.C. 2743.52(A). On August 4, 2004, the applicant filed a request for reconsideration asserting that he incurred work loss from August 24, 2003 through November 30, 2003. On September 2, 2004, the Attorney General issued a Final Decision that determined that no modification of the previous decision was warranted. On September 16, 2004, the applicant filed a notice of appeal to the Attorney General's September 2, 2004 Final Decision. Hence, this appeal came to be heard before this panel of three commissioners on December 2, 2004 at 10:50 A.M.

{¶ 2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony, exhibits, and oral argument for this panel's consideration.

David Lemieux testified that he sustained an eye injury as the result of the criminally injurious conduct. As the result of the injury, the applicant stated that he was unable to continue his employment as a finish carpenter. The applicant testified that he received no collateral sources for the time period spanning August 24, 2003 through November 20, 2003.

{¶ 3} From review of the file and with full and careful consideration given to the comments presented at the hearing, this panel makes the following determination. We find that the applicant has proven, by a preponderance of the evidence, that he incurred work loss as a result of the criminally injurious conduct and hence the applicant shall be awarded an emergency work loss award in the amount of \$2,000.00 based upon the current work loss information contained in the file and the applicant's testimony. Moreover in light of the information presented at the hearing, we find that further investigation of the applicant's work loss is warranted. Therefore, this case shall be continued and the Attorney General shall be ordered to file a supplemental memorandum addressing the applicant's total economic loss.

IT IS THEREFORE ORDERED THAT

- 1) The September 2, 2004 decision of the Attorney General is REVERSED and judgment is rendered in favor of the applicant in the amount of \$2,000.00;
- 2) This case is referred to the Attorney General for payment of the \$2,000.00 emergency award pursuant to R.C. 2743.191 and R.C. 2743.67;
- 3) This claim is continued and the oral hearing on the applicant's notice of appeal from the decision of the Attorney General shall now be heard on **January 12, 2005 at 11:30 A.M.** at

the Court of Claims of Ohio, The Ohio Judicial Center, 65 South Front Street, Fourth Floor, Columbus, Ohio 43215, by a panel of three commissioners;

4) On or before **January 3, 2005**, the Attorney General shall submit a supplemental memorandum addressing the applicant's total economic loss;

5) Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Commissioner

JAMES H. HEWITT III
Commissioner

CLARK B. WEAVER, SR.
Commissioner

ID #\1-dld-tad-120204

A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Cuyahoga County Prosecuting Attorney and to:

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To S.C. Reporter 1-31-2005

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ORDER