

[Cite as *Wicks v. Miami Univ.*, 2005-Ohio-7098.]

IN THE COURT OF CLAIMS OF OHIO

ANN BARROTT WICKS	:	
Plaintiff	:	
v.	:	CASE NO. 2005-09073-AD
MIAMI UNIVERSITY	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

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FINDINGS OF FACT

{¶ 1} 1) On December 25, 2004, plaintiff, Ann Barrott Wicks, suffered property loss when her books and teaching materials received water damage when a ceiling pipe in her office burst. Plaintiff is an employee of defendant, Miami University, and her office is located in the Art Building on defendant's campus.

{¶ 2} 2) Plaintiff estimated her water damaged property had a replacement value of \$2,800.59. Plaintiff filed this complaint seeking to recover \$2,500.00, the statutory maximum amount recoverable for an Administrative Determination claim (see R.C. 2743.10). Plaintiff noted she carries insurance coverage for this type of personal property subject to a \$1,000.00 deductible and a \$1,000.00 limit. Plaintiff's total out-of-pocket loss for her water damaged property amount to \$1,800.00. The filing fee was paid.

{¶ 3} 3) Defendant admitted liability for plaintiff's property loss. However, defendant maintained any recovery plaintiff may receive should be off-set by insurance proceeds available. Plaintiff requested damages in the amount of \$1,800.00, her total

loss not covered by insurance.

{¶ 4} 4) On November 21, 2005, plaintiff filed a response to defendant's investigation report expressing her agreement with defendant's position.

CONCLUSIONS OF LAW

{¶ 5} 1) Defendant, by exercising control over the piping system in plaintiff's office, was under a duty to maintain the system in good and safe working order. *Mosebach v. Miami University of Ohio* (1990), 90-02431-AD.

{¶ 6} 2) Negligence on the part of defendant has been proven in respect to breaching inspection and maintenance duties. *Krukar v. Bowling Green State University* (1991), 91-04934-AD; *Schlemmer v. Bowling Green State University* (1997), 97-05479-AD; *Philip v. Miami University* (2000), 99-15056-AD.

{¶ 7} 3) R.C. 3345.40(B)(2) states in pertinent part:

{¶ 8} "If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against the state university or college recovered by plaintiff."

{¶ 9} Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the water damaged property shall be limited to \$1,800.00, plaintiff's stated out-of-pocket expense.

{¶ 10} 4) Plaintiff has suffered damages in the amount of \$1,800.00, 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.

IN THE COURT OF CLAIMS OF OHIO

ANN BARROTT WICKS	:	
Plaintiff	:	
v.	:	CASE NO. 2005-09073-AD
MIAMI UNIVERSITY	:	<u>ENTRY OF ADMINISTRATIVE</u>
Defendant	:	<u>DETERMINATION</u>

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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 \$1,825.00, 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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11/29
Filed 12/9/05

Sent to S.C. reporter 1/9/06