

[Cite as *In re Foster*, 2006-Ohio-2805.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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| IN RE: CHERYL D. FOSTER | : | Case No. V2005-80762 |
| CHERYL D. FOSTER | : | <u>ORDER OF A THREE-</u> |
| Applicant | : | <u>COMMISSIONER PANEL</u> |
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{¶ 1} The applicant filed a reparations application seeking reimbursement of medical expenses, counseling expenses, and work loss with respect to an April 1, 2004 sexual assault incident. On June 2, 2005, the Attorney General granted the applicant an award in the amount of \$3,306.88, which represented \$88.09 for unreimbursed medical expenses, \$1,502.79 for unreimbursed work loss incurred from April 2, 2004 through May 9, 2004, and \$1,716.00 for unreimbursed counseling expenses which were paid directly to the provider, Dorothy Evans. On June 27, 2005, the applicant filed a request for reconsideration. The applicant contended that her work loss was erroneously calculated because: 1) an incorrect hourly wage was utilized, 2) the day of the incident (a work day) was not included, 3) the pay period the Attorney General used to calculate work loss did not accurately reflect the applicant's working history, and 4) the calculations did not include pay for Saturdays. On October 25, 2005, the Attorney General issued a Final Decision. The Attorney General modified the work loss portion of the award to include additional work loss in the amount of \$2,348.57. However, Saturday pay was not included because it was not supported by any evidence. On November 22, 2005, the applicant filed a notice of appeal to the Attorney General's Final Decision. The applicant asserted

Saturday pay was not included in the Attorney General's calculations. On January 17, 2006, the Attorney General submitted a Statement in Lieu of Brief. The Attorney General's investigation revealed that, in fact, the applicant would have been required to work Saturdays during her disability period. The Attorney General also noted that he failed to deduct Social Security from the calculations. Accordingly, the Attorney General recommended the applicant be granted an award in the amount of \$2,800.15 for work loss. Hence, this matter came to be heard before this panel of three commissioners on February 8, 2006 at 11:25 A.M.

{¶ 2} The applicant's attorney and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. Both parties said they had reached an agreement with respect to the amount of additional work loss incurred. This amount included work on Saturdays. Both parties agreed the amount of work loss awarded should be \$2,800.15.

{¶ 3} From a review of the file and with careful consideration given to all information presented at the hearing, we find the applicant should be granted an award of reparations in the total amount of \$2,800.15, which represents unreimbursed work loss incurred from April 1, 2004 through May 9, 2004.

IT IS THEREFORE ORDERED THAT

- 1) The January 10, 2006 motion for extension of time to file a brief is MOOT;
- 2) The October 25, 2005 decision of the Attorney General is MODIFIED to render judgment in favor of the applicant in the amount of \$2,800.15;

3) This claim is remanded to the Attorney General for payment of the award pursuant to R.C. 2743.191;

4) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

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

TIM MC CORMACK
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

LLOYD PIERRE-LOUIS
Commissioner

ID #\3-drb-tad-022306

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

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