

[Cite as *In re Timperio*, 2006-Ohio-2808.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: VICTORIA M. TIMPERIO : Case No. V2005-80801
VICTORIA M. TIMPERIO : ORDER OF A THREE-
Applicant : COMMISSIONER PANEL

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{¶ 1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to a February 25-26, 2005 sexual assault incident. On August 3, 2005, the Attorney General granted the applicant an award in the amount of \$82.64 for unreimbursed economic loss. The applicant's claim for reimbursement of counseling expense was denied, pursuant to R.C. 2743.60(D), contending she failed to utilize the Bureau of Workers' Compensation as a collateral source. On September 12, 2005, the applicant filed a request for reconsideration. On November 14, 2005, the Attorney General issued a Final Decision indicating the previous decision warranted no modification. On December 2, 2005, the applicant filed a notice of appeal to the Attorney General's Final Decision. On January 30, 2006, the Attorney General filed a Brief indicating that the Bureau of Workers' Compensation is not a readily available collateral source for reimbursement of the applicant's counseling expenses. Hence, this matter came to be heard before this panel of three commissioners on February 22, 2006 at 10:50 A.M.

{¶ 2} The applicant's attorney and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General stated,

since the criminally injurious conduct did not occur at the applicant's place of employment, that the Bureau of Workers' Compensation is not a readily available collateral source. Accordingly, the Assistant Attorney General recommended the applicant be awarded \$170.00, which represented the applicant's unreimbursed counseling expenses incurred on March 16, 2005 at Laurelwood Hospital. The applicant's attorney concurred with the Assistant Attorney General's recommendation.

{¶ 3} From review of the file and with careful consideration given to all the information presented at the hearing, we find the Bureau of Workers' Compensation was not a readily available collateral source, as the term is defined in R.C. 2743.51(B), for this particular instance.

{¶ 4} Revised Code 2743.51(B), in pertinent part, states:

(B) "Collateral source' means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available. . . ."

{¶ 5} Therefore, the Attorney General's November 14, 2005 Final Decision shall be reversed and the applicant shall be granted an award of reparations in the amount of \$170.00 for unreimbursed allowable expense, as defined in R.C. 2743.51(F)(1). Should the applicant incur additional unreimbursed expenses in the future that are related to the criminally injurious conduct that would be an appropriate basis for filing a supplemental compensation application.

IT IS THEREFORE ORDERED THAT

- 1) The November 14, 2005 decision of the Attorney General is REVERSED and judgment is rendered in favor of the applicant in the amount of \$170.00;
- 2) This claim is remanded to the Attorney General for payment of the award pursuant to R.C. 2743.191;
- 3) 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;
- 4) Costs are assumed by the court of claims victims of crime fund.

RANDI OSTRY LE HOTY
Commissioner

JAMES H. HEWITT III
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\5-drb-tad-022706

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

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