

[Cite as *In re Estergall*, 2006-Ohio-6320.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: GUY G. ESTERGALL	:	Case No. V2006-20631
GUY G. ESTERGALL	:	<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 expenses incurred with respect to an October 23, 2004 assault incident. On October 31, 2005, the Attorney General granted the applicant an award in the amount of \$26,828.78 for work loss sustained from October 23, 2004 through June 12, 2005. On November 28, 2005, the applicant filed a request for reconsideration. On June 2, 2006, the Attorney General issued a Final Decision denying the applicant an award for additional reimbursement pursuant to R.C. 2743.60(D) contending that the applicant had collateral sources, namely AFLAC and Medical Mutual coverage. On July 3, 2006, the applicant filed a notice of appeal to the Attorney General's June 2, 2006 Final Decision. On August 30, 2006, the Attorney General filed a brief recommending the applicant be granted a total award in the amount of \$33,495.10 for unreimbursed work loss incurred from October 23, 2004 through June 21, 2005. On September 20, 2006 at 11:40 A.M., this matter came to be heard before this panel of three commissioners.

{¶ 2} The applicant's attorney, via telephone, and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Attorney General explained that after further review of the applicant's claim it was determined that the applicant incurred additional work loss in the total amount of \$33,495.10. Applicant's counsel raised no objection to the Attorney General's recommendation for payment. After a brief discussion of the claim, the panel chairman concluded the hearing.

{¶ 3} From review of the file and with full consideration given to all the information presented at the hearing, we find that the applicant incurred additional work loss in the total amount of \$33,495.10 for the time period covering October 23, 2004 through June 21, 2005. Therefore, the June 2, 2006 decision of the Attorney General shall be reversed to grant the applicant an award of reparations in the amount of \$33,495.10 for unreimbursed work loss.

IT IS THEREFORE ORDERED THAT

- 1) The applicant's September 18, 2006 motion to withdraw the appeal is hereby DENIED;
- 2) The June 2, 2006 decision of the Attorney General is REVERSED to render judgment in favor of the applicant in the amount of \$33,495.10;
- 3) This claim is referred to the Attorney General pursuant to R.C. 2743.191 for payment of the award;

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.

GREGORY P. BARWELL
Commissioner

JAMES H. HEWITT III
Commissioner

KARL C. KERSCHNER
Commissioner

ID #X-dld-tad-092006

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 11-29-2006