

[Cite as *Fleck v. Ohio Dept. of Transp.*, 2006-Ohio-7177.]

IN THE COURT OF CLAIMS OF OHIO

T. MICHELE FLECK :
Plaintiff :
v. : CASE NO. 2006-01262-AD
OHIO DEPARTMENT OF : ENTRY OF DISMISSAL
TRANSPORTATION :
Defendant :

{¶ 1} On January 13, 2006, plaintiff, T. Michele Fleck, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on January 5, 2004, while walking to the lobby at the rest area on Interstate 75 North in Miami County at mile marker 80.4, she tripped and fell on an uneven cement sidewalk. Plaintiff claims she suffered personal injury as the result of the trip and fall due to defendant's negligence in maintaining the walkway. Plaintiff is seeking damages in the amount of \$1,881.45.

{¶ 2} On February 3, 2006, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "In sum, R.C. Section 2743.16(A) required Plaintiff T. Michele Fleck to file her complaint within two years of the January 5, 2004 incident. Plaintiff, T. Michele Fleck, did not file her complaint with the Court of Claims until January 13, 2006, and therefore failed to timely state a claim upon which relief can be granted."

{¶ 4} Plaintiff has not filed a response to defendant's motion to dismiss.

{¶ 5} R.C. 2743.16(A) in pertinent part states:

{¶ 6} "Subject to division (B) of this section, civil actions against the state . . . shall be commenced *no later than two years after the date of accrual of the cause of action* or within any shorter period that is applicable to similar suits between private parties." (Emphasis added.)

{¶ 7} The facts reveal that the slip and fall incident occurred on January 5, 2004, and plaintiff did not submit her complaint until January 13, 2006, over two years later. Pursuant to R.C. 2743.16(A), plaintiff's claim was not timely filed and accordingly, her complaint shall be dismissed.

{¶ 8} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. The court shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

T. Michele Fleck
9659 N. Six Lakes Road
Six Lakes, Michigan 48886

Plaintiff, Pro se

Thomas P. Pannett, P.E.

For Defendant

Case No. 2006-01262-AD

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ENTRY

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