

Court of Claims of Ohio Victims of Crime Division

The Ohio Judicial Center

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IN RE: ROBERT C. VASS

Case No. V2006-21204

ROBERT C. VASS

Applicant

Commissioners:
Thomas H. Bainbridge, Presiding
Gregory P. Barwell
Tim McCormack

ORDER OF A THREE-
COMMISSIONER PANEL

{¶1} On April 18, 2006, Robert Vass ("Officer Vass" or "applicant") filed a supplemental reparations application seeking reimbursement of expenses incurred with respect to an August 20, 2000 criminally injurious conduct incident, whereby he sustained injury while chasing a suspect. On July 17, 2006, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove that he incurred additional economic loss. On August 15, 2006, the applicant filed a request for reconsideration. On November 29, 2006, the Attorney General denied the claim pursuant to R.C. 2743.60(D) contending that all the applicant's economic loss had been or may be recouped from a collateral source, namely AFLAC. On December 19, 2006, the applicant filed a notice of appeal to the Attorney General's November 29, 2006 Final Decision. On September 5, 2007 at 10:10 A.M., this matter was heard before this panel of three commissioners.

{¶2} The applicant, the applicant's attorney, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for the panel's consideration. Officer Vass testified that he missed 16 weeks of work from October 2005 through January 2006 as a result of the criminally injurious conduct. Officer Vass

stated that he lost special duty pay, shift differential pay, and overtime pay when he was off work. Officer Vass explained that he has 3 different policies (short term disability, accident, and cancer) with AFLAC and that he received \$6,000.00 from AFLAC under his short term disability policy as result of the criminally injurious conduct. Officer Vass stated that he did not recover or apply for any monies under his accident policy because he was informed by an AFLAC agent that he was ineligible to recover such due to the nature in which he sustained injury.

{¶3} Applicant's counsel argued that the applicant, due to the criminally injurious conduct, lost special duty pay, overtime pay, and shift differential pay. Counsel also argued that the applicant should be reimbursed \$673.44 for the AFLAC premiums he had to pay while he was off work, since his claim will be reduced by \$6,000.00 in AFLAC benefits that are a collateral source. However, the Assistant Attorney General maintained that the applicant's AFLAC premiums are not a compensable item and that the applicant should have filed a claim under his accident policy with AFLAC.

{¶4} From review of the file and with full and careful consideration given to all the information presented at the hearing, we make the following determination. First, we find that AFLAC is a collateral source and that all AFLAC proceeds (\$6,000.00) will be deducted from the applicant's award. See *In re Ross*, V2006-20062jud (8-21-07) and *In re Rinkus*, V2006-20119jud (8-21-07). Second, we find that the applicant did not unreasonably fail to file a claim under his AFLAC accident policy. Officer Vass testified that he spoke to an AFLAC agent who advised him that he was ineligible to receive any benefits under that policy due to the manner in which he sustained injury. See *In re Ross*, V2006-20062tc (4-2-07), 2007-Ohio-2927 affirmed (8-21-07). Third, we find that the applicant's AFLAC premiums are not compensable in this case. AFLAC premiums

fail to fall under any category of reimbursable economic loss. Fourth, we find that the applicant incurred additional work loss (special duty pay, shift differential pay, and overtime pay) as a result of the criminally injurious conduct. Based on the above, the November 29, 2006 decision of the Attorney General shall be reversed and the applicant shall be granted an award in the amount of \$1,000.00 for unreimbursed work loss. The claim shall be remanded to the Attorney General for additional work loss calculations and decision.

{¶15} IT IS THEREFORE ORDERED THAT

{¶16} 1) The November 29, 2006 decision of the Attorney General is REVERSED and judgment is rendered in favor of the applicant in the amount of \$1,000.00;

{¶17} 2) This claim is remanded to the Attorney General for payment of the award and for additional economic loss calculations and decision consistent with the panel's findings and decision;

{¶18} 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;

{¶19} 4) Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Presiding Commissioner

GREGORY P. BARWELL
Commissioner

TIM MC CORMACK
Commissioner

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

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