

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

OPAL TIPTON

Plaintiff

v.

MIAMI UNIVERSITY

Defendant

Case No. 2007-06845-AD

Clerk Miles C. Durfey

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} 1) On July 5, 2007, a truck owned by plaintiff, Opal Tipton, was damaged when the parked vehicle was struck by a lawnmower operated by an employee of defendant, Miami University. Plaintiff alleged that her vehicle was damaged as a proximate cause of negligence on the part of defendant's employee in performing lawn maintenance work on defendant's premises.

{¶2} 2) Plaintiff filed this complaint seeking to recover damages in the amount of \$394.05 for automotive repair costs, plus \$134.99 for car rental expenses. Plaintiff acknowledged that she carries insurance coverage for vehicle property damage with a \$200.0 deductible provision. The \$25.00 filing fee was paid and plaintiff requested reimbursement of that amount.

{¶3} 3) Defendant filed an investigation report admitting liability for plaintiff's property damage, but asserting that her recovery should be limited by any available collateral source recovery.

CONCLUSIONS OF LAW

{¶4} 1) Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property while performing any maintenance work. In regard to the facts of this claim, negligence on the part of defendant has been shown. *Caver v. Miami Univ.*, Ct. of Cl. No. 2004-07301-AD, 2004-Ohio-4834; *Trent v. Miami Univ.*, Ct.

of Cl. No. 2004-09045, 2004-Ohio-7319; *Maag v. Miami Univ.*, Ct. of Cl. No. 2004-10736-AD, 2005-Ohio-648; *Hoelle v. Miami Univ.*, Ct. of Cl. No. 2005-06970-AD, 2005-Ohio-4643.

{¶15} 2) R.C. 3345.40(B)(2) states in pertinent part:

{¶16} “If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against the state university or college recovered by plaintiff.”

{¶17} Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the automotive repair expenses is subject to available collateral sources.

{¶18} 3) Plaintiff has suffered damages in the amount of \$200.00, plus the \$25.00 filing fee, which may be reimbursed as compensable costs pursuant to R.C. 2335.19. See *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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MEMORANDUM DECISION

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ENTRY OF ADMINISTRATIVE DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$225.00, which includes the filing fee. Court costs are assessed against defendant.

MILES C. DURFEY
Clerk

Entry cc:

Opal Tipton
10789 Hoel Road
Camden, Ohio 45311

Paul S. Allen
Court of Claims Coordinator
Miami University

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RDK/laa
11/27
Filed 12/17/07
Sent to S.C. reporter 2/5/08