

# 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

DAVID M. DEMOSKY

Plaintiff

v.

OHIO UNIVERSITY

Defendant

Case No. 2008-11320-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

### FINDINGS OF FACT

{¶ 1} 1) On October 27, 2008, plaintiff, David M. Demosky, an employee of defendant, Ohio University (“OU”), sustained property damage to his 2000 Honda Accord while exiting the OU Heating Plant area. Specifically, the left front door of plaintiff’s vehicle was damaged when it struck a square metal cover that had been laying on the roadway.

{¶ 2} 2) Plaintiff contended his property damage was proximately caused by negligence on the part of defendant in failing to maintain the metal cover in good repair. Plaintiff filed this complaint seeking to recover \$327.21, the listed estimated cost of automotive repair he incurred resulting from the October 27, 2008 incident. The filing fee was paid.

{¶ 3} 3) Defendant filed an investigation report advising that OU does not contest this claim. Defendant acknowledged plaintiff’s “vehicle was damaged by the drainage plate structure which was in disrepair at the time.” Defendant submitted a copy of a repair estimate for plaintiff’s car in the amount of \$302.21.

{¶ 4} 4) Plaintiff filed a response requesting compensation “for the damage to my automobile \$325.00.”

#### CONCLUSIONS OF LAW

{¶ 5} 1) Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff’s property. In regard to the facts of this case, negligence on the part of defendant has been shown. See *Jagoditz v. Miami University* (2005), 2005-01986-AD.

{¶ 6} 2) Plaintiff has suffered damages in the amount of \$302.21. The \$25.00 filing fee 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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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 \$327.21, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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RDK/laa  
3/6  
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