

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

CRAIG A. DOWNS

Plaintiff

v.

BURR OAK STATE PARK

Defendant

Case No. 2009-07440-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Craig A. Downs, filed this action against defendant, Burr Oak State Park, contending his 2009 Ford Ranger received paint damage on August 10, 2009 while parked on defendant's premises. Plaintiff requested damage recovery in the amount of \$839.06 representing paint removal expenses he stated he incurred as a result of the August 10, 2009 incident. Plaintiff submitted the \$25.00 filing fee and he has requested reimbursement of that cost along with his damage claim. Plaintiff also requested reimbursement of the \$4.00 bank fee for drafting a cashier's check he submitted to pay the filing fee. The cashier's check fee is non-compensable.

{¶ 2} 2) Defendant filed an investigation report acknowledging plaintiff stated a claim under Chapter 2743 of the Ohio Revised Code. Defendant agreed plaintiff suffered property damage in the amount of \$839.06 and filing fee costs in the amount of \$25.00. Defendant advised that any collateral source payment plaintiff

received for paint removal costs must be deducted from any damage award.¹ In his complaint, plaintiff denied he received any collateral source recovery for paint removal expenses. The estimate for repair plaintiff submitted with his complaint noted “Insurance Pay \$839.06.”

CONCLUSIONS OF LAW

{¶ 3} 1) Negligence on the part of defendant has been shown. See *Gutridge v. Ohio Dept. of Natural Resources*, Ct. of Cl. No. 2003-10821-AD, 2004-Ohio-2889; *Duncan v. Ohio Dept. of Adm. Servs.*, Ct. of Cl. No. 2007-08864, 2008-Ohio-4187; *Havens v. Ohio Dept. of Natural Resources* (2009), 2008-10978-AD.

{¶ 4} 2) Plaintiff has suffered damages in the amount of \$839.06, 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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¹ R.C. 2743.02(D) provides in part:

“(D) Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant.”

Case No. 2009-07740-AD

Deputy Clerk Daniel R. Borchert

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 \$864.06, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
12/18
Filed 1/7/10
Sent to S.C. reporter 4/30/10