

[Cite as *Early v. Ohio Dept. of Natural Resources*, 2016-Ohio-7208.]

HARRIET JANE EARLY

Plaintiff

v.

OHIO DEPARTMENT OF NATURAL
RESOURCES

Defendant

Case No. 2016-00186-AD

Clerk Mark H. Reed

MEMORANDUM DECISION

{¶1} On March 10, 2016, Harriet Jane Early (hereinafter “plaintiff”) filed an action against defendant Ohio Department of Natural Resources (hereinafter “ODNR”), alleging she suffered a personal injury on October 30, 2015 at the Malabar Farms Park Visitation Center. In her complaint, plaintiff stated that at approximately 1:40 p.m. she fell off the curb while exiting or returning to the Park Visitation Center to dispose of a glass root beer bottle she purchased at the park and injured her left ankle requiring surgery to repair. Plaintiff stated she incurred \$5,215.16 in damages and included various medical bills attesting to this total. Plaintiff has a \$4,900.00 insurance deductible and has not received any insurance payments with regard to her injury.

{¶2} In an investigation report filed with the Court on May 11, 2016, defendant stated, among other defenses, that plaintiff’s claim was barred by the operation of Ohio law, in particular citing sections 1533.18 and 1533.181 of the Ohio Revised Code. These sections, when read together, stand for the proposition that ODNR owes no duty to a recreational user to keep park premises safe for entry and travel. Premises in this case includes the curb where plaintiff fell.

{¶3} While the court is sympathetic to plaintiff’s injury, the court finds that ODNR is correct on the application of the law in this case. Plaintiff is a recreational user. Her injury and loss occurred as a result of her use of defendant’s premises, not by some direct or indirect act on the part of the state agency. The agency had no duty to plaintiff to keep the premises, in this case a curb, safe. If there is no duty, there cannot be a

finding of negligence, and thus no finding that the agency can be held liable for plaintiff's loss. For this reason, the claim is denied.

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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 defendant. Court costs shall be absorbed by the Court.

MARK H. REED
Clerk

Entry cc:

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