



# 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

NEIDA N. MILLER

Plaintiff

v.

BUREAU OF MOTOR VEHICLES

Defendant

Case No. 2011-02701-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

{¶1} Plaintiff, Neida Miller, filed this complaint asserting that her vehicle was impounded as a proximate result of an act on the part of defendant, Bureau of Motor Vehicles (BMV), in erroneously recording her driver's license status as suspended. Consequently, plaintiff filed this complaint seeking to recover damages in the amount of \$107.33 based on defendant's improper and erroneous record keeping. Plaintiff submitted the \$25.00 filing fee.

{¶2} Defendant has admitted liability in that the BMV records were not properly updated and plaintiff's driver's license should not have been under suspension on the date in question. Defendant acknowledged plaintiff is entitled to recover \$107.33 for towing and storage expenses.

{¶3} Plaintiff did not file a response.

{¶4} The court finds that resulting damages may be recovered when a plaintiff proves, by a preponderance of the evidence, her driver's license was erroneously listed as suspended by defendant. *Ankney v. Bureau of Motor Vehicles* (1998), 97-11045-AD; *Serbanescu v. Bureau of Motor Vehicles* (1994), 93-15038-AD; *Black v. Bureau of*

*Motor Vehicles* (1996), 95-01441-AD. These damages must directly flow from defendant's failure to convey accurate information. *Henighan v. Ohio Dept. of Public Safety* (1997), 97-01619-AD; *Jordan v. Bureau of Motor Vehicles* (1998), 97-10341-AD.

{¶5} Plaintiff has proven, by a preponderance of the evidence, that her driver's license was improperly listed as suspended by defendant. *McGee v. Ohio Bureau of Motor Vehicles* (1997), 97-03999-AD. Defendant is liable to plaintiff for damages plaintiff can prove resulted from defendant's failure to keep proper accurate records. *Rivers v. Bureau of Motor Vehicles*, Ct. of Cl. No. 2005-06872-AD, 2005-Ohio-7089.

{¶6} As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239, 577 N.E. 2d 160. The court in the instant claim finds defendant liable to plaintiff for towing and storage costs. Thus defendant is liable to plaintiff for damages in the amount of \$107.33, 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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## 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 \$132.33, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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SJM/laa

5/17

Filed 5/24/11

Sent to S.C. reporter 8/19/11