



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

ROBERT KESSACK

Plaintiff

v.

OHIO UNIVERSITY

Defendant

Case No. 2011-10223-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} On June 4, 2011, Corynn Kessack returned to find that the 2008 Mustang she had parked in a parking garage located on the premises of defendant, Ohio University (OU) had been damaged when structural material from the parking garage fell upon the rear of the vehicle. The car is owned by plaintiff, Robert Kessack.

{¶2} Plaintiff filed this complaint seeking to recover \$688.89, the total estimated cost of repairing the damage to the car. Plaintiff acknowledged he maintains insurance coverage for damage to the vehicle. Plaintiff submitted the filing fee with the complaint.

{¶3} Defendant filed an investigation report stating that "Ohio University does not contest this claim" and requesting that the amount of damages be limited to plaintiff's deductible of \$250.00 and reimbursement of the filing.

{¶4} Plaintiff did not file a response.

CONCLUSIONS OF LAW

{¶5} Negligence by defendant has been shown. See *Alfrets v. Cleveland State University* (2001), 2000-12319-AD.

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

{¶7} “If 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 should 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.” Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the automotive repair expenses shall be limited to \$250.00, plaintiff’s insurance coverage deductible.

{¶8} Plaintiff has suffered damages in the amount of \$250.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Dept. 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 \$275.00, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Robert Kessack
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George T. Wendt, Risk Manager
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