

IN THE COURT OF CLAIMS OF OHIO

PERCY HUTTON

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2025-00808AD

Deputy Clerk Holly True Shaver

MEMORANDUM DECISION

{¶1} Percy Hutton (“plaintiff”), an inmate, filed a complaint against defendant, Ohio Department of Rehabilitation and Correction (“ODRC”). Plaintiff related on September 6, 2024, at defendant’s Ross Correctional Institution (“RCI”), plaintiff gave his typewriter to the mail room staff at RCI to be mailed out to a repair company. However, it never reached the repair shop and was returned to RCI. On December 18, 2024, plaintiff resent the typewriter to the repair company. However, plaintiff claims that staff at RCI damaged the typewriter. Plaintiff also asserts that he was overcharged for the cost of shipping.

{¶2} Plaintiff seeks damages in the amount of \$74.53, which includes \$45.00 for the repair costs and \$29.53 for the alleged overcharge for shipping. Plaintiff was not required to submit the \$25.00 filing fee.

{¶3} Defendant submitted an investigation report denying liability in this matter. Defendant states that plaintiff’s original shipment was delayed because of “an incident which caused the institution to be placed on modified movement.” Defendant asserts that mail room staff “wrapped Plaintiff’s typewriter in bubble wrap and securely packaged it in a box prior to sending it out,” and they are not responsible for any of the damage that may have occurred to the typewriter once it left the facility while it was in transit. Defendant also states that plaintiff was not overcharged for shipping costs; rather, “there was an additional shipping resource added to the contract at some point since the last time

Plaintiff sent out his typewriter, which reduced shipping prices for the incarcerated population.”

{¶4} Plaintiff submitted a response to defendant’s investigation report wherein plaintiff reasserts that defendant is liable for the damage to the typewriter and the excess shipping costs.

{¶5} To prevail in a claim for negligence, plaintiff must prove, by a preponderance of the evidence, that defendant owed plaintiff a duty, that defendant breached that duty, and that defendant’s breach proximately caused plaintiff’s damages. *Armstrong v. Best Buy Co., Inc.*, 2003-Ohio-2573, ¶ 8, citing *Meniffee v. Ohio Welding Prod., Inc.*, 15 Ohio St.3d 75, 77 (1984).

{¶6} Whether a duty exists is a question of law to be decided by the court, while breach of such duty is a question of fact. *Snay v. Burr*, 2021-Ohio-4113, ¶ 14, citing *Mussivand v. David*, 45 Ohio St.3d 314, 318 (1989).

{¶7} “[Defendant] does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but it does have the duty to make reasonable attempts to protect such property. When prison authorities obtain possession of an inmate’s property, a bailment relationship arises between the correctional facility and the inmate. By virtue of this relationship, [defendant] must exercise ordinary care in handling and storing an inmate’s property. However, a correctional institution cannot be held liable for the loss of contraband property that an inmate has no right to possess.” (Internal citations omitted.) *Triplett v. S. Ohio Corr. Facility*, 2007-Ohio-2526, ¶ 7 (10th Dist.).

{¶8} This court has consistently held that “[i]f property is lost or stolen while in defendant’s possession, it is presumed, without evidence to the contrary, defendant failed to exercise ordinary care.” Internal citations omitted. *Velez v. Ohio Dept. of Rehab. & Corr.*, 2020-Ohio-2932 (Ct. of Cl.), ¶ 6.

{¶9} Plaintiff has the burden of proving, by a preponderance of the evidence, that plaintiff suffered a loss and that this loss was proximately caused by defendant’s negligence. *Coffman v. Mansfield Corr. Inst.*, 2009-Ohio-5859, ¶ 9 (10th Dist.).

{¶10} To recover against a defendant in a tort action, plaintiff must produce evidence which furnishes a reasonable basis for sustaining plaintiff’s claim. If plaintiff’s evidence furnishes a basis for only a guess, among different possibilities, as to any

essential issue in the case, plaintiff fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.*, 161 Ohio St. 82 (1954).

{¶11} The credibility of witnesses and the weight attributable to their testimony are primarily matters for the trier of fact. *State v. DeHass*, 10 Ohio St.2d 230 (1967), paragraph one of the syllabus. The court is free to believe, or disbelieve, all or any part of each witness's testimony. *State v. Antill*, 176 Ohio St. 61 (1964). The court finds plaintiff's statement particularly persuasive.

{¶12} Upon review, plaintiff has presented sufficient evidence to establish defendant's negligence as it relates to the damaged typewriter. Although defendant asserts that it properly packed plaintiff's typewriter in bubble wrap and arranged for its shipment, plaintiff supplied a letter from the company that repaired plaintiff's typewriter, Your Typewriter & Computer, wherein the individual informed plaintiff that "upon opening the box, it revealed that the typewriter was not packed for shipping." This letter contradicts defendant's assertion that it properly packed plaintiff's typewriter. Moreover, plaintiff maintains that the damaged components were intact at the time the typewriter was provided to RCI mailroom staff. Therefore, the Deputy Clerk finds that plaintiff is entitled to \$45.00 for the damaged typewriter.

{¶13} However, plaintiff has not produced sufficient evidence to support a finding that defendant was negligent in charging plaintiff for shipping. As explained in defendant's investigation report, shipping rates for incarcerated individuals were reduced between plaintiff's initial shipment of the typewriter and the subsequent shipment. Therefore, the evidence shows that plaintiff was not overcharged; rather, the rates changed between shipments.

{¶14} Therefore, judgment is rendered in favor of plaintiff in the amount of \$45.00.

Plaintiff

Deputy Clerk Holly True Shaver

v.

ENTRY OF ADMINISTRATIVE
DETERMINATION

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

{¶15} 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 \$45.00. Court costs are assessed against defendant.

HOLLY TRUE SHAVER
Deputy Clerk

Filed 1/13/26
Sent to S.C. Reporter 3/9/26