

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

THOMAS L. KAUTH

Plaintiff

v.

WEST BRANCH STATE PARK

Defendant

Case No. 2009-07750-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Thomas L. Kauth, filed an action against defendant, West Branch State Park (Park), contending the converter and television set in his son-in-law's motor home were damaged on August 22, 2009 as a proximate cause of negligence on the part of the Park in maintaining a faulty electrical receptacle at campsite 53 on Park grounds. Plaintiff requested damage recovery in the amount of \$786.66, representing the total expenses he incurred to replace the converter and television set in the motor home. The \$25.00 filing fee was paid.

{¶ 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 \$786.66 and filing fee costs in the amount of \$25.00. Defendant advised that any collateral source payment plaintiff received for property loss must be deducted from any damage award.¹

¹ R.C. 2743.02(D) provides in part:

“(D) Recoveries against the state shall be reduced by the aggregate of insurance proceeds,

{¶ 3} 3) Plaintiff filed a response expressing his agreement with defendant's position. Plaintiff did not offer any evidence to establish he had obtained any collateral source recovery.

CONCLUSIONS OF LAW

{¶ 4} 1) Negligence on the part of defendant has been shown. *Slane v. Ohio Dept. of Natural Resources*, Ct. of Cl. No. 2006-04288-AD, 2006-Ohio-7297; *Fisher v. Geneva State Park Marina*, Ct. of Cl. No. 2008-09538-AD, 2008-Ohio-7135; *Chuck v. Ohio Dept. of Natural Resources*, Ct. of Cl. No. 2008-09317-AD, 2009-Ohio-4266.

{¶ 5} 2) Plaintiff has suffered damages in the amount of \$786.66, 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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disability award, or other collateral recovery received by the claimant.”

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 \$811.66, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
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