

IN THE COURT OF CLAIMS OF OHIO

AHMAD F. ISSA, #364-585	:	
P.O. Box 788	:	
Mansfield, Ohio 44901	:	Case No. 2002-06561-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
MANSFIELD CORRECTIONAL	:	
INSTITUTION	:	
Defendant	:	

: : : : : : : : : : : : : : : :

For Defendant: Gregory C. Trout, Chief Counsel
 Department of Rehabilitation and
 Correction
 1050 Freeway North
 Columbus, Ohio 43229

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FINDINGS OF FACT

{¶1} 1) On December 23, 2001, plaintiff, Ahmad F. Issa, an inmate incarcerated at defendant, Mansfield Correctional Institution, had funds withdrawn from his inmate account to purchase a television set through mail-order. Plaintiff paid \$57.99 for the television set plus \$27.00 for shipping and handling.

{¶2} 2) Plaintiff indicated he had initially received approval to possess the television set before he ordered it. However, after the set was received at defendant's institution, approval to possess the property was disallowed. Consequently, plaintiff was required to ship the television set back to the sender at his expense. He was given a credit for the purchase price of the television.

{¶3} 3) Plaintiff filed this complaint seeking to recover \$27.00 his initial shipping expense for the set, plus \$10.44 the cost incurred to ship the television back, and \$25.00 for filing fee reimbursement. Plaintiff also claimed \$.80 for copying expenses. Plaintiff's total damage claim amounts to \$63.24.

{¶4} 4) Defendant acknowledged plaintiff received permission to order the television set. Defendant admitted this permission was revoked and plaintiff was therefore required to ship the television set back to the vendor at his own expense. Defendant has admitted liability for the cost of reshipping the television set, \$10.44. Defendant has denied plaintiff is entitled to receive compensation for the \$27.00 shipping costs he initially incurred. Defendant denied any acts on the part of its personnel resulted in plaintiff incurring the initial shipping costs. The \$27.00 shipping cost was paid because plaintiff chose to have the television sent within two days of the vendor receiving the order. Defendant denied liability for copying costs. Defendant admitted liability for the \$25.00 filing fee.

{¶5} 5) Plaintiff filed a response in which he insisted he is entitled to be reimbursed for all shipping costs he paid. The trier of fact agrees.

CONCLUSIONS OF LAW

{¶6} 1) Plaintiff's claim for copying is denied. See *Cincinnati ex rel. Simons v. Cincinnati* (1993), 86 Ohio App. 3d 258.

{¶7} 2) Defendant is liable to plaintiff for all damages plaintiff can prove flowed from defendant's wrongful act.

{¶8} 3) Where the existence of damage is established, the evidence need only tend to show the basis for the computation of damages to a fair degree of probability. *Brewer v. Brothers* (1992), 82 Ohio App. 3d 148. Only reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶9} 4) 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.

{¶10} 5) Defendant is liable to plaintiff in the amount of \$37.44, plus the \$25.00 filing fee which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

{¶11} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶12} IT IS ORDERED THAT:

{¶13} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶14} 2) Defendant (Mansfield Correctional Institution) pay plaintiff (Ahmad F. Issa) \$62.44 and such interest as is allowed by law;

{¶15} 3) Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
10/8
Filed 10/31/02
Jr. Vol. 723, Pg. 161
Sent to S.C. reporter 11/15/02