

**IN THE COURT OF CLAIMS OF OHIO**  
**VICTIMS OF CRIME DIVISION**

IN RE: JOHN W. TIMSON	:	Case No. V2002-50790
JOHN W. TIMSON	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} On November 15, 2002, this panel of commissioners issued a decision reversing the Attorney General’s April 24, 2002 decision denying the applicant’s claim. The court determined that the applicant should be reimbursed for *all allowable expense* incurred from his travels to Florida and remanded the claim to the Attorney General for economic loss calculations and decision. On January 3, 2003, the Attorney General issued an Amended Finding of Fact and Decision whereby the applicant was granted an award of reparations in the amount of \$295.50 for unreimbursed allowable expense (airfare). On March 18, 2003, attorney Philip Sheridan was removed as attorney of record for the applicant. On March 19, 2003, the *pro se* applicant filed a motion to show cause why the Attorney General was not in contempt of the panel’s November 15, 2002 decision. On March 24, 2003, the Attorney General issued a Final Decision whereby the *pro se* applicant was granted an award in the amount of \$3,019.50 as unreimbursed allowable expense. The Final Decision referenced a stipulation between the applicant and Assistant Attorney General, Kimberly Wells, on March 21, 2003 and March 24, 2003, respectively. The

stipulation indicates that Mr. Timson waived his right to appeal the Attorney General's March 24, 2003 decision and that the \$3,019.50 award shall constitute full payment of all economic loss incurred by the applicant for the period of September 2001 through June 2002. The stipulation also stated that if the applicant was not reimbursed the \$3,019.50 by April 1, 2003 then the stipulation would be deemed null and void. The court notes the applicant received the \$3,019.50 award prior to April 1, 2003. On April 4, 2003, this panel ordered the Attorney General to file a clarification memorandum indicating how the Attorney General and the applicant arrived at the \$3,019.50 figure as allowable expense and set the matter for oral hearing. On April 8, 2003, the applicant filed an emergency request for assistance in order to obtain housing and hip surgery. On April 23, 2003, the applicant filed a notice of appeal. On April 30, 2003, the Attorney General filed the Clarification Memorandum. On May 2, 2003, the Attorney General issued a Supplemental Finding of Fact and Decision with regard to the applicant's request for an emergency award in the amount of \$150.12 for additional airfare to Florida. However, the Attorney General specifically denied the applicant's request for housing and hip surgery. On May 7, 2003, the applicant filed a memorandum contra to the Attorney General's finding that the Ohio Hospital Care Assurance Program( HCAP) and/or Medicaid will treat the applicant. At 11:35 A.M. on May 7, 2003, a hearing was held before this panel to discuss all relevant matters. On May 13, 2003, the applicant filed a motion for money saving suggestions. On May 15, 2003, the applicant filed an amended emergency supplement expense sheet.

{¶2} The *pro se* applicant and Assistant Attorney General attended the hearing and presented testimony and oral argument for this panel's consideration. Essentially, the applicant contended that he is entitled to additional reimbursement based upon his April 8, 2003 motion

for housing and hip surgery. Mr. Timson asserted that based upon the panel's November 15, 2002 order the Attorney General should have granted him a \$2,000.00 emergency award for housing. The applicant explained that he has secured the services of a local physician, who is willing to perform his much needed hip surgery, provided that he acquired stable housing accommodations prior to the surgery. The applicant advised the panel that he is unable to afford stable housing based upon his limited income of \$700.00 per month and explained that if he did not receive the funds to obtain proper lodging then he would miss another opportunity to have the hip surgery. Mr. Timson also indicated that he wanted all his Florida related travel expenses reimbursed thereby seeking a grand total of approximately \$3,820.00 (\$2,000.00 housing + \$1,780.00 Florida expenses + \$40.00 transportation expense) in reimbursement.

{¶3} When questioned about his assertion that he signed the stipulation *under great duress*, Mr. Timson responded that he signed the stipulation in order to speedily receive his money considering his current economic status (indigent). The applicant informed the panel that at the time he signed the stipulation, he desperately needed money for food, bills and other necessities. The applicant further stated that his former attorney had originally resolved with the Assistant Attorney General for him to receive a \$3,000.00 award instead of a \$5,000.00 award without his consent. Mr. Timson explained that later his former attorney was removed as the attorney of record and hence he negotiated with the Attorney General to receive the \$3,019.50 as noted in the stipulation and March 24, 2003 Final Decision.

{¶4} With respect to his March 19, 2003 motion for contempt, Mr. Timson stated that he believes the Attorney General should be held in contempt for failing to act in accordance with this panel's November 15, 2002 order. The applicant argued that all his travel expenses to

Florida should have been immediately reimbursed to him. Mr. Timson stated that the Attorney General's refusal to grant him *his reasonable award* was direct violation of the law.

{¶5} However, the Assistant Attorney General contends that all the applicant's allegations are incorrect. The Assistant Attorney General advised the panel that she determined that those items listed on the stipulation qualified as allowable expense. The Assistant Attorney General informed the panel that Attorney Sheridan made the argument that those expenses were allowable expenses since the applicant was homeless, needed to receive his mail and could not have transported all his possessions to Florida with him. The Assistant Attorney General stated she agreed with Attorney Sheridan and hence the stipulation developed. Lastly, the Assistant Attorney General argued that Mr. Timson did not sign the stipulation under duress since she received the fax from him indicating the amount he wished to be reimbursed.

{¶6} Furthermore, the Assistant Attorney General argued that the applicant's March 19, 2003 motion alleging that the Attorney General acted in contempt of the panel's November 15, 2002 order should be denied. The Assistant Attorney General stated that the Attorney General appropriately responded to the panel's November 15, 2002 order and reimbursed the applicant for all those expenses that were verifiable at the time. The Assistant Attorney General also asserted that all decisions and awards were issued to the applicant in a timely fashion. The Assistant Attorney General noted that the applicant's March 24, 2003 award was hand delivered to him.

{¶7} The Assistant Attorney General also explained to the panel that, as far as the applicant's April 8, 2003 motion for housing and hip surgery was concerned, the applicant is now eligible for Medicaid or HCAP. The Assistant Attorney General stated that the applicant's

request for a \$2,000.00 emergency housing award is not warranted based upon current documentation. The Assistant Attorney General also asserted that the housing issue is not yet ripe. Furthermore, the Assistant Attorney General argued that the applicant was reimbursed for most of his Florida expenses under the stipulation. However, the Assistant Attorney General noted that the Medicaid and housing issues shall be further reviewed under the applicant's pending supplemental compensation application.

{¶8} From review of the file and with full and careful consideration given to all the information presented, this panel makes the following determination. Mr. Timson's March 19, 2003 motion and argument that the Attorney General should be held in contempt for allegedly failing to comply with the panel's November 15, 2002 decision is not well-taken. We find no evidence that the Attorney General failed to comply with the panel's November 15, 2002 order that would warrant the Attorney General being held in contempt.

{¶9} However, we find the Attorney General's March 24, 2003 Final Decision granting the applicant an award in the amount of \$3,019.50 to be unlawful under R.C. 2743.51(F). The Attorney General reimbursed the applicant for items unrecoverable from the fund. R.C. 2743.51(F) defines "allowable expense" as reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. Under the Attorney General's and applicant's stipulation, the applicant was wrongfully reimbursed for the Securit Storage facilities and mail services during his travels to Florida. The court notes that never in the history of this program has a victim or applicant ever been granted rent (the applicant was homeless at the time of the criminally injurious conduct and lived at the Securit facility) or mail

accommodations. We do not find these items to be reasonable charges that would qualify as allowable expenses. Therefore, the March 24, 2003 decision of the Attorney General shall be reversed as to the portion wrongfully granted and no additional awards shall be granted to the applicant until his economic loss exceeds the amount wrongfully paid (\$1,099.50).

{¶10} The applicant's April 8, 2003 motion and argument for emergency housing and hip surgery is also not well-taken by this court. Mr. Timson's request for housing is not recoverable by the fund. This program reimburses victims of economic loss incurred as a direct result of the criminally injurious conduct. Mr. Timson was homeless at the time of the criminally injurious conduct. The goal of this program is to make a victim whole in terms of the actual economic loss, as defined by R.C. 2743.51(E), they have sustained as a result of the criminally injurious conduct: This program is not a welfare program designed to enhance a victim's lifestyle. As far as the hip surgery request is concerned, the applicant now appears eligible for Medicaid. If Medicaid or HCAP does not cover Mr. Timson's related medical expense, then that would be an appropriate basis for filing a supplemental compensation application.

{¶11} Furthermore, we find Mr. Timson's April 23, 2003 notice of appeal and argument of duress is not well-taken by this panel. We do not believe the applicant's social-economic status to be adequate justification for finding *that the entire* stipulation was invalid.

{¶12} Lastly, the applicant's May 13, 2003 motion for money saving suggestions shall be denied. The panel is unable to approve a set reimbursable amount based upon the affidavit of any claimant. The panel understands that this process can at times be cumbersome and frustrating to applicants. However, we cannot arbitrarily assign a fixed dollar amount for any

case in order to speed up the process. Applicants are required to prove by a preponderance of the evidence that they have, in fact, incurred some form of economic loss before an award of reparations may be granted.

{¶13} IT IS THEREFORE ORDERED THAT

{¶14} 1) The applicant's March 19, 2003 motion is hereby DENIED;

{¶15} 2) The applicant's April 8, 2003 motion is hereby DENIED;

{¶16} 3) That portion of the March 24, 2003 decision of the Attorney General that the panel determined to be unlawful is hereby REVERSED;

{¶17} 4) The applicant's May 13, 2003 motion for money saving suggestions is hereby DENIED;

{¶18} 5) The applicant shall not be granted any additional reimbursement until the applicant's economic loss exceeds the amount wrongfully paid (\$1,099.50);

{¶19} 6) Costs are assumed by the court of claims victims of crime fund.

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DALE A. THOMPSON  
Commissioner

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KARL H. SCHNEIDER  
Commissioner

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ASHER W. SWEENEY  
Commissioner