

[Cite as *Shaw v. Northeast Pre-Release Center*, 2004-Ohio-5138.]

IN THE COURT OF CLAIMS OF OHIO

DEBORAH SHAW :
Plaintiff :
v. : CASE NO. 2004-05503-AD
NORTHEAST PRE-RELEASE CENTER : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶ 1} 1) On February 6, 2004, an automobile owned by plaintiff, Deborah Shaw, was damaged by a malfunctioning traffic gate arm owned and operated by defendant, Northeast Pre-Release Center.

{¶ 2} 2) Plaintiff filed this complaint seeking to recover \$653.98, the cost of automotive repair resulting from the February 6, 2004, incident. The requisite material filing fee was paid.

{¶ 3} 3) Defendant filed an investigation report admitting liability for plaintiff's property damage. Defendant asserted plaintiff is entitled to recover reasonable repair expenses based on estimates submitted.

CONCLUSIONS OF LAW

{¶ 4} 1) The traffic gate and the mechanism which governs it is under the exclusive control of defendant. Thus, defendant will be liable for any malfunction which causes damages. *Han v. Traffic Department, Ohio State University* (1981), 81-04575-AD.

{¶ 5} 2) Plaintiff has proven defendant is liable for her property loss. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶ 6} 3) 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.

{¶ 1} 4) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. 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.

{¶ 2} 5) The court finds defendant liable to plaintiff in the amount of \$653.98, 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.

IN THE COURT OF CLAIMS OF OHIO

DEBORAH SHAW	:	
Plaintiff	:	
v.	:	CASE NO. 2004-05503-AD
NORTHEAST PRE-RELEASE CENTER	:	<u>ENTRY OF ADMINISTRATIVE</u>
Defendant	:	<u>DETERMINATION</u>

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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 \$678.98, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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Plaintiff, Pro se

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For Defendant

RDK/laa
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