



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

SHANE J. GONTARZ

Plaintiff

v.

OHIO UNIVERSITY

Defendant

Case No. 2011-08750-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} Plaintiff, Shane Gontarz, a resident student attending defendant, Ohio University (OU), filed this action contending that defendant should bear responsibility for the loss of his property that was water damaged when the air conditioner in his dormitory room leaked water. Plaintiff explained that when he returned to his dormitory room on the evening of May 6, 2011, he discovered that his property had been damaged when water leaked from the unit and ruined his computer. Plaintiff related that his computer was covered by “Black Tie protection * * * which replaces the computer at a fraction of the cost.” Plaintiff requested monetary damages in the amount of \$581.24, the stated replacement cost of his computer, \$20 for travel expenses to facilitate the purchase, and reimbursement of the filing fee. The \$25.00 filing fee was paid.

{¶2} Defendant filed an investigation report stating that OU does not dispute the damage claim for replacement of the computer and reimbursement of the filing fee; however, OU notes that plaintiff failed to document that he spent \$20.00 on gasoline when he purchased a replacement computer.

{¶3} Plaintiff did not file a response.

CONCLUSIONS OF LAW

{¶4} Defendant, by exercising control over the air cooling system in the student housing facility, was under a duty to maintain the system in good and safe working order. *Mosebach v. Miami University of Ohio* (1990), 90-02431-AD; *Chetsko v. Miami University*, Ct. of Cl. No. 2007-03960-AD, 2007-Ohio-4395; *Smith v. Miami Univ.*, Ct. of Cl. No. 2008-10501-AD, 2009-Ohio-2418.

{¶5} Negligence on the part of defendant has been proven in respect to breaching inspection and maintenance duties. *Kurkar v. Bowling Green State University* (1991), 91-04934-AD; *Schlemmer v. Bowling Green State University* (1997), 97-05479-AD; *Philip v. Miami University* (2000), 99-15056-AD; *Stout v. Miami Univ.*, Ct. of Cl. No. 2007-03510-AD, 2007-Ohio-4873.

{¶6} Defendant is liable to plaintiff in the amount of \$536.24, 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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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 \$561.24, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Shane J. Gontarz
37420 Fawn Path Drive
Solon, Ohio 44139

George T. Wendt, Risk Manager
Ohio University
University Service Center 136
1 Ohio University
Athens, Ohio 45701-2979

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