

[Cite as *Klein v. Corr. Reception Ctr.*, 2006-Ohio-7242.]

IN THE COURT OF CLAIMS OF OHIO

HAROLD A. KLEIN :
Plaintiff :
v. : CASE NO. 2006-02641-AD
CORR. RECEPTION CTR. : MEMORANDUM DECISION
Defendant :

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

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Harold A. Klein, an inmate incarcerated at defendant, Correctional Reception Center ("CRC"), stated his television set was intentionally damaged on July 18, 2005, by inmate John Perisie. Apparently, inmate Perisie entered plaintiff's cell and poured tea and sugar water into the back of the television destroying the internal workings.

{¶ 2} 2) Plaintiff contended defendant should be held liable for the damage to his television set due to negligence on the part of CRC personnel in failing to provide adequate protection. Plaintiff consequently filed this complaint seeking to recover \$130.00 for property loss, plus \$25.00 for filing fee reimbursement. The filing fee was paid.

{¶ 3} 3) Defendant denied any liability in this matter. Defendant denied CRC was charged with any duty to protect plaintiff's property from the intentional acts of fellow inmates.

{¶ 4} 4) Plaintiff responded, insisting defendant was negligent in failing to provide adequate security to protect his television set.

CONCLUSIONS OF LAW

{¶ 5} 1) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but that it does have the duty to make "reasonable attempts to protect, or recover" such property.

{¶ 6} 2) Defendant is not responsible for acts committed by inmates unless an agency relationship is shown or it is shown that defendant was negligent. *Walker v. Southern Ohio Correctional Facility* (1978), 78-0217-AD.

{¶ 7} 3) Plaintiff must produce evidence which affords a reasonable basis for the conclusion defendant's conduct is more likely than not a substantial factor in bringing about the harm. *Parks v. Department of Rehabilitation and Correction* (1985), 85-01546-AD.

{¶ 8} 4) In order to recover against a defendant in a tort action, plaintiff must produce evidence which furnishes a reasonable basis for sustaining his claim. If his evidence furnishes a basis for only a guess, among different possibilities, to any essential issue in the case, he fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.* (1954), 161 Ohio St. 82.

{¶ 9} 5) Plaintiff has failed to show any causal connection between any damage to his television set and any breach of a duty owed by defendant in regard to protecting inmate property.

Druckenmiller v. Mansfield Correctional Inst. (1998), 97-11819-AD; *Melson v. Department of Rehabilitation and Correction*, 2003-Ohio-3615.

IN THE COURT OF CLAIMS OF OHIO

HAROLD A. KLEIN :

Plaintiff :

v. :

CASE NO. 2006-02641-AD

CORR. RECEPTION CTR. :

ENTRY OF ADMINISTRATIVE
DETERMINATION

Defendant :

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

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 defendant. Court costs are assessed against plaintiff. 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:

Harold A. Klein, #213-193
11271 St. Rt. 762
Orient, Ohio 43146

Plaintiff, Pro se

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

For Defendant

Case No. 2006-02641-AD

-2-

MEMORANDUM DECISION

RDK/laa

7/21

Filed 8/4/06

Sent to S.C. reporter 4/5/07