

Court of Claims of Ohio Victims of Crime Division

The Ohio Judicial Center

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IN RE: AARON WARD

Case No. V2007-90463

AARON WARD

Applicant

Commissioners:

Lloyd Pierre-Louis, Presiding

Gregory P. Barwell

Clarence E. Mingo II

ORDER OF A THREE-
COMMISSIONER PANEL

{¶ 1} The applicant filed a reparations application and supplemental compensation application seeking reimbursement of expenses incurred with respect to a May 12, 2004, resisting arrest incident. The applicant is a Columbus police officer. On January 24, 2006, and November 1, 2006, the Attorney General found the applicant qualified as a victim of criminally injurious conduct, however, his claim for work loss was denied due to the lack of documentation. On November 30, 2006, the applicant filed a request for reconsideration asserting the appropriate documentation had been submitted. On May 22, 2007, the Attorney General issued a Final Decision granting the applicant an award of reparations in the amount of \$1,479.35, for work loss incurred for the period of May 12, 2004 through August 16, 2004. On June 20, 2007, the applicant filed a notice of appeal from the Attorney General's May 22, 2007 Final Decision. The applicant contends the Attorney General failed to calculate the wages he lost from his special duty assignments. The applicant alleges he suffered loss of special duty pay for time he would have worked at Easton Shopping Center ("Easton") from May 14, 2004 to August 14, 2004 and at Lowe's Home Improvement Center ("Lowe's") from May 13, 2004 to August 14, 2004. On December 12, 2007, the Attorney General filed a supplemental brief indicating the applicant had incurred work loss from his special duty

jobs in the amount of \$1,759.36. However, this amount must be reduced by \$280.01 for an overpayment received from the American Family Life Assurance Company ("AFLAC") which offset his regular duty pay with the Columbus Police Department. Accordingly, the applicant should be granted an award of reparations in the amount of \$1,479.35, which represents work loss incurred for special duty job assignments. On December 19, 2007 at 11:25 A.M., this matter was heard before this panel of three commissioners.

{¶ 2} The applicant, applicant's attorney, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for this panel's consideration.

{¶ 3} Mr. Ward testified concerning the injury he sustained while on duty. Mr. Ward related he suffered a loss of special duty pay during his period of disability. The applicant's counsel presented a copy of a lost wage verification and authorization form. This information was marked applicant's Exhibit 1. Mr. Ward confirmed the information contained on the exhibit. The exhibit indicated that the applicant lost 81 hours of special duty pay from his employment with Lowe's for a total loss of \$2,601.00 and 56 hours from his employment with Easton for a total loss of \$1,802.00.

{¶ 4} During cross examination the Assistant Attorney General introduced Mr. Ward's 2004 form 1099-Misc, marked Attorney General's Exhibit A. The applicant confirmed the figures contained on the form were accurate. The Assistant Attorney General questioned who filled out the dates of missed employment. The applicant responded he did, however, he related that supervisors at both special duty employment locations signed the form acknowledging that the time lost was accurate.

{¶ 5} In response to questions from the panel of commissioners, the applicant indicated that his special duty work schedule changed after his injury. During his

disability period he relied on other officers to fulfill his special duty obligations, so upon his return that rather than cut these officers off he shared his special duty assignments with them. This explains the reduced amount of special duty pay he received after returning to work full time on August 16, 2004. It was also revealed that prior to his injury he would give approximately 15 percent of his special duty assignments to other officers.

{¶ 6} There is no dispute with respect to the disability period nor the fact that the applicant sustained work loss for special duty employment, the only disagreement concerns the amount of disability pay incurred. The applicant contends his special duty pay work loss totals \$4,122.99 while the Assistant Attorney General asserts the loss should amount to \$1,479.35.

{¶ 7} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, we find the applicant incurred work loss as defined in R.C. 2743.51(G), in the gross amount of \$3,504.54. We arrived at that amount in the following manner. First, we found the applicant to be a credible witness and the exhibits he submitted were unrefuted. Accordingly, we calculate work loss based on a gross special duty work loss of \$2,601.00 from Lowe's and \$1,802.00 from Easton, reduced by \$280.01 an overpayment received from AFLAC, reduced by 15 percent the number of hours the applicant testified he would have given to fellow members of the Columbus Police Department during his disability period. The \$3,504.54 is the gross amount of work loss sustained since applicable taxes have not been considered. Therefore, the May 22, 2007 decision of the Attorney General shall be modified and the claim shall be remanded to the Attorney General for calculation of the applicable taxes to be deducted from the gross work loss figure and for decision.

{¶ 8} IT IS THEREFORE ORDERED THAT

- {¶ 9} 1) The applicant's Exhibit 1 is admitted into evidence;
- {¶ 10} 2) The Attorney General's Exhibit A is admitted into evidence;
- {¶ 11} 3) The May 22, 2007 decision of the Attorney General is MODIFIED and judgment is rendered for the applicant;
- {¶ 12} 4) This claim is remanded to the Attorney General for work loss calculations in accordance with the panel of commissioners' directions;
- {¶ 13} 5) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;
- {¶ 14} 6) Costs are assumed by the court of claims victims of crime fund.

LLOYD PIERRE-LOUIS
Presiding Commissioner

GREGORY P. BARWELL
Commissioner

CLARENCE E. MINGO II
Commissioner

[Cite as *In re Ward*, 2008-Ohio-5680.]

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