

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
MIDDLE DIVISION

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TOWN OF MONTEAGLE,)
)
 Claimant,) Claim No. T20150679
)
 vs.)
)
 STATE OF TENNESSEE,)
) Regular Docket
 Defendant.)

ORDER OF DISMISSAL

This matter came before Robert N. Hibbett, Commissioner and judge of the facts and law, upon the State's Motion to Dismiss alleging lack of subject matter jurisdiction. Assistant Attorney General Amanda Jordan represented the State of Tennessee. J. Harvey Cameron, Esquire, represented the Claimant, Town of Monteagle.

In its Complaint, the Town of Monteagle alleges that due to a defective water meter it had under billed the State of Tennessee for water provided to state rest areas. The amount under billed was \$493,220.16. For purposes of the instant motion, the Tribunal shall consider the allegations to be factually true.

The State filed a Motion to Dismiss alleging that because there is no written contract between the parties, then the Claims Commission may not

exercise subject matter jurisdiction pursuant to Tenn. Code Ann. § 9-8-

307(a)(1)(L):

(L) Actions for breach of a written contract between the claimant and the state which was executed by one (1) or more state officers or employees with authority to execute the contract...

In response, the Claimant has stated it would be inequitable and unjust enrichment for the State of Tennessee not to be liable for the water it received from the Town of Monteagle. It also filed an affidavit of the Mayor of Monteagle alleging the Claimant would not have rendered services to the State without a duly executed contract. However due to the initiation of services that occurred over forty years ago, the Town of Monteagle cannot find an executed contract.

Decision

The Claims Commission is a statutory tribunal (court) created to adjudicate certain enumerated monetary actions against the State of Tennessee. It must follow the law as enacted by the General Assembly and interpreted by our appellate courts. It is not a court of equity; it is solely a court of law.

Furthermore, it cannot expand its jurisdiction beyond the plain meaning of its enabling statute. Our Supreme Court has clarified this:

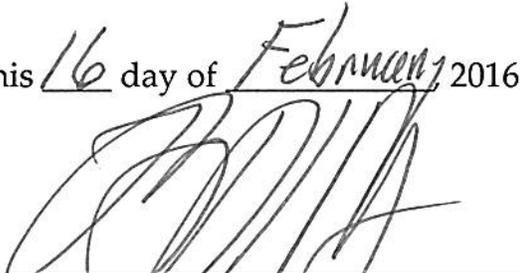
Hence, although we have traditionally given a strict construction to the scope of the Commission's jurisdiction, we also recognize that

our primary goal in interpreting statutes is "to ascertain and give effect to the intention and purpose of the legislature." *Gleaves v. Checker Cab Transit Corp., Inc.*, 15 S.W.3d 799, 802 (Tenn.2000) (citing *Carson Creek Vacation Resorts, Inc. v. State Dep't of Revenue*, 865 S.W.2d 1, 2 (Tenn.1993)). If the legislature intends that its statutes waiving sovereign immunity are to "be liberally construed," then the courts should generally defer to this expressed intention in cases where the statutory language legitimately admits of various interpretations. A policy of liberal construction of statutes, however, only requires this Court to give "the most favorable view in support of the petitioner's claim," *Brady v. Reed*, 186 Tenn. 556, 563, 212 S.W.2d 378, 381 (1948), and such a policy "does not authorize the amendment, alteration or extension of its provisions beyond [the statute's] obvious meaning." *Pollard v. Knox County*, 886 S.W.2d 759, 760 (Tenn.1994). Moreover, "[w]here a right of action is dependent upon the provisions of a statute ... we are not privileged to create such a right under the guise of a liberal interpretation of it." *Hamby v. McDaniel*, 559 S.W.2d 774, 777 (Tenn.1977).

Stewart v. State, 33 S.W.3d 785, 791 (Tenn. 2000)

Although it does appear to be inequitable for the State to escape liability for the water it was provided, the Tribunal respectfully dismisses this claim because there is no evidence of a *written* contract.

IT IS SO ORDERED this 16 day of February, 2016.



ROBERT N. HIBBETT
Claims Commissioner
Sitting as the Trial Court of Record

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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This 18 of Feb., 2016.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission