

Victims Support and Rehabilitation Act 1996
NOTICE OF DETERMINATION

Name:

File ref: 73140*

REASONS FOR DISMISSAL

Ms claims victims compensation for injury arising out of several episodes of alleged sexual assault as a child at the hands of her football coach. The short facts are that the applicant would stay overnight at the coach's home and she claims that on each occasion he would coerce her to submit to sexual intercourse.

The sexual abuse is said to have taken place in 1996 when the applicant would have been 8 years of age. Ms did not disclose the alleged abuse to the police until some 3 years later. I understand that a teacher had found a note written by the applicant in which she claimed to have been raped over a period of three years. This resulted in mandatory disclosure to DOCS and a police investigation concluded with the coach being charged with several counts of sexual assault. The accused faced a trial at the District Court. He was acquitted of all charges.

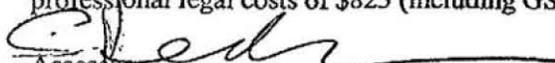
Of course the fact that there was no conviction is not necessarily fatal to the applicant's case as the civil, and not criminal, standard of proof is applicable in assessing victims compensation claims.

I have had an opportunity of reading the transcript of the Judge's summation to the jury as well as the various witness statements and ROIs in the police brief. I am not satisfied that the applicant has discharged the onus of proof: in reaching this decision I have had particular regard to the following.

- The delay and circumstances of the disclosure.
- The inconclusive forensic evidence particularly in light of the allegations of repeated acts of prolonged sexual intercourse.
- The lack of any admissions by the accused.
- The denial by the accused's wife that she had been present during several of the occasions when Ms claimed she had been sexually assaulted.
- The lack of credibility of the applicant in relation to certain aspects of her evidence – the presence of the wife during the assaults and the accused having a drink during one of the acts of intercourse.

I have of course also considered the evidence of the applicant's aunt which goes to partially corroborate one episode but I note that she was only two years older than the applicant at the time of the incident and like the applicant she did not make a formal statement until several years after the event. Moreover, no medical evidence has been submitted to support the applicant's claim that she had 'vaginal' infections/ problems in 1997 and her GP was concerned that she might have been molested.

These are serious allegations against a man of previously good character; based on the material before me I am not satisfied that it is more likely than not that he sexually assaulted the applicant and the claim is dismissed. I allow medico-legal disbursements of \$550 and professional legal costs of \$825 (including GST).


 Assessor

7/5/02