

SUBMISSIONS IN SUPPORT OF APPEAL

RE: BXA
VCT REF: 73140

The Appellant relies upon all documents and material submitted on behalf of the victim in the initial proceedings before the Assessor.

The Appellant's application relates to the finding of the Tribunal that there was not an act of violence.

Whilst it is conceded that the finding of an act of violence is solely a discretionary matter, it was clear that the Assessor has had a regard to a number of matters in coming to that conclusion which we submit were regarded incorrectly by the Assessor. In particular:-

- (a) The Assessor finds that the absence of any forensic evidence from the doctor who undertook the examination 7 years after the act of violence is an indication that the Appellant's case should fail. Clearly the doctor did not say this. The doctor's evidence is that even if there were not any forensic findings, having heard the history of the act of violence, it is possible that the clinical findings are still consistent with the complaints made by the victim.
- (b) The other issue relates to any lack of evidence of other health issues. The Police forwarded a statement from the victim's treating doctor in relation to some problems she was suffering in 1997. This was some months after the last act of violence. Such an indication of irritation and infection could be relative to the allegation made by the victim.
- (c) Whilst the Assessor certainly concedes at the outset of the judgment the difference in standards of proof before the Court and before the Tribunal, we would submit that notwithstanding having noted the difference, the Assessor has failed to apply that difference to the evidence before him/her.
- (d) Sexual assaults of this nature are notoriously not disclosed until some time after the act of violence. This of itself should not be a basis for precluding compensation as it is necessarily established associated with such conduct. The defendant's prior good

conduct was mentioned but there are a significant number of paedophiles who were not previously known to the Police prior to a conviction for a serious matter.

It is submitted that the Assessor has failed to give appropriate weight to the corroboration provided by the victim's cousin in relation to the acts of violence.

The mother has given evidence of a clearer version by the victim to return to the home where she was assaulted. This attitude has been long-standing and is entirely consistent with the allegations of abuse.

Dated: 21 August 2002



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Solicitor for the Appellant