

"Y"

Your Reference: KEITH FOST

17 April 2013

BXA [REDACTED]  
[REDACTED]

Dear BXA [REDACTED]

Re: BXA [REDACTED]

Act of Violence: 1 January 1997

I refer to your application for victims compensation received by Victims Services on the 8 April 2013 (returned to you).

Please be advised that an application has previously been lodged in respect of statutory compensation for the same act of violence with a further duplicate claim attempted to be lodged on 12 November 2004.

As the application received on the 8 April 2013 refers to the same allegation that occurred during 1997 at [REDACTED] this application becomes a duplicate. For your assistance I have enclosed a copy of the application for victims compensation previously lodged (our reference 73140).

Your attention is drawn to Section 23(1A) which states:

**23 Eligibility to receive compensation in respect of same act of violence**

**(1A) If a person's application for statutory compensation in respect of an act of violence has been finally determined by the dismissal of the application, the person is not eligible to receive an award of statutory compensation by means of a further application that is made:**

- (a) in respect of the same act of violence, and**
- (b) in the same capacity of primary victim, secondary victim or family victim.**

I note that an Appeal against the Compensation Assessor's determination was made to the Tribunal on the 19 June 2002. The matter was considered by the Tribunal Magistrate on 16 October 2002

There is no provision that gives permission for a new application for compensation to be lodged at any time for the same act of violence.

Any further Appeals in this matter can only be considered by an appeal lodged in the District Court pursuant to S.39 in which:

**S.39 Appeals to the District Court on questions of law**

(1) An applicant for statutory compensation may, with the leave of the District Court, appeal to the District Court on a question of law arising in any determination of the application by the Tribunal.

(2) An appeal by a person under this section may be instituted:

(a) within the period of 3 months after the day on which the relevant notice of the determination made by the Tribunal was duly served on the person, or

(b) within such further time as the District Court may in exceptional circumstances allow.

(3) For the purposes of this section, the following matters are not questions of law:

(a) a determination of whether an injury for which compensation has been claimed is an injury specified in the schedule of compensable injuries or whether it is a compensable injury of a particular description specified in that schedule,

(b) a determination of whether a series of acts are related and constitute a single act of violence.

(4) An appeal does not lie to the District Court against a decision of the Tribunal to refuse leave for a late application for statutory compensation.

(5) On an appeal, the District Court may only:

(a) affirm the determination of the Tribunal, or

(b) set aside the determination and remit the matter to be considered and determined again by the Tribunal (either with or without the hearing of further evidence) in accordance with the decision of the District Court on the question of law concerned.

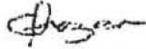
Any further enquiries regarding lodgement of an appeal to the District Court should be directed to the District Court Civil Registry on 1300 679 272.

For your information I have enclosed a copy of:

- The original Application form Lodged on 1 March 2001;
- The Compensation Assessor's Determination made on 7 May 2002;
- The Tribunal Magistrate's decision of 16 October 2002.

If you have any enquiries you can contact Victims Services on **REDACTED** for assistance from the compensation section.

Yours faithfully



**Colleen Frazer**  
**Manager**  
**Appeals & Registry Section**  
**Victims Services**