

**CITATION:** BN v *Victim Assist Queensland* (No 2)  
[2012] QCAT 287

**PARTIES:** BN  
(Applicant)  
v  
Victim Assist Queensland  
(Respondent)

**APPLICATION NUMBER:** GAR298-11

**MATTER TYPE:** General administrative review matters

**HEARING DATE:** On the papers

**HEARD AT:** Brisbane

**DECISION OF:** **C Endicott, Senior Member**

**DELIVERED ON:** 10 May 2012

**DELIVERED AT:** Brisbane

**ORDERS MADE:** **The respondent's application to attend the hearing listed for 20 June 2012 by telephone is refused.**

**CATCHWORDS:** REVIEW OF ADMINISTRATIVE DECISION – where hearing to take place in [...] – where respondent is based in Brisbane – where respondent applied to attend final hearing by telephone

*Queensland Civil and Administrative Tribunal Act 2009* section 32 (1)

**APPEARANCES and REPRESENTATION (if any):**

This matter was heard and determined on the papers pursuant to s 32 of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act).

**REASONS FOR DECISION**

- [1] BN as a victim of crime applied for financial assistance under the *Victims of Crime Assistance Act 2009*. BN's application for financial assistance relating to travel to Canada with a friend by way of escort to attend the Eyaa-Keen Centre Inc has been refused. Associated travel claims with

- numerous international stopovers and rail travel within Canada were also refused.
- [2] BN has commenced a review of the decision by Victim Assist Queensland and that review will come on for hearing in [ ... ] on 20 June 2012.
- [3] Victim Assist Queensland applied for leave to attend the hearing by telephone. The grounds for the application were stated as follows: *Victim Assist Queensland is located in Brisbane and has no capacity to send representatives to attend the hearing in person. A compulsory conference was previously held in this matter with Victim Assist Queensland attending by telephone without any discernible problems for either party or the member.*
- [4] QCAT can conduct all or part of a proceeding by remote conferencing.<sup>1</sup> The tribunal may decide to conduct a hearing by telephone if that is an appropriate course to follow.
- [5] I was not persuaded that it was appropriate in this case to conduct the final hearing of the review application with one of the parties on the telephone. BN is not represented in this proceeding. According to the evidence filed in the tribunal, BN has significant difficulty organising herself and BN becomes easily confused and agitated when rushed. It is likely that BN will display similar organisational problems when presenting BN's own case at the hearing.
- [6] If so, BN will have difficulties in organising BN's evidence and documents at the hearing. It would assist the tribunal in ensuring the efficient conduct of the hearing to have present in person at the hearing a representative from the original decision maker who could identify for the hearing member the documents and issues relevant to the decision under review and who could respond immediately to any fresh documents produced at the hearing by BN.
- [7] I considered that it was an essential ingredient for an efficient hearing to have both parties able to communicate on an equal footing with the hearing member and with an equal ability to peruse documents and comment on them. If one party were to be on the telephone arrangements would have to be made to scan documents with a consequent delay and interruption to the hearing process.
- [8] The original decision maker has an obligation to use their best endeavours to help the tribunal make its decision.<sup>2</sup> I was not satisfied that conducting a hearing over the telephone in this case would provide the level of assistance that the hearing member may desire in order to reach the correct and preferable decision.

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<sup>1</sup> Section 32(1) of the QCAT Act  
<sup>2</sup> Section 21(1) of the QCAT Act

- [9] I was not persuaded that the respondent did not have the capacity to send a representative to the hearing in person when travel to attend hearings wherever they should occur is an essential part of the statutory role of the respondent when its decisions are being reviewed by QCAT. It must be inherent in the *Victims of Crime Assistance Act 2009* that by providing external review of decisions it was contemplated by the Legislature that the decision maker would have to take an active part in that external review process in order to provide appropriate assistance to QCAT.
- [10] The tribunal is quite prepared to allow the respondent to attend compulsory conferences by telephone as the process involved in a conference is fundamentally different from the process involved in a hearing. Unlike a conference, a hearing results in a final determination of the proceeding and should generally be conducted with the parties present in person. Exceptions may occur in some circumstances but this is not such a case. Leave to attend the hearing by telephone was refused.