

NOVA SCOTIA COURT OF APPEAL

Citation: *J.M.D. v. Nova Scotia (Utility and Review Board)*, 2004 NSCA131

Date: 20041028

Docket: CA 218275

Registry: Halifax

Between:

J.M.D.

Appellant

v.

Nova Scotia Utility and Review Board and
Department of Justice - Victims' Services

Respondent

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: October 12, 2004

Subject: Alleged sexual and "medical" assault. Claim for compensation pursuant to the **Victims' Rights and Services Act**, R.S.N.S. 1989, c. 14. Appeal to the Nova Scotia Utility and Review Board. Similar fact evidence. Errors of law.

Summary: J.M.D. claimed that she was the victim of sexual and "medical" assault at the hands of Dr. N., a prominent psychiatrist, now deceased, when she was a young nursing student living in Halifax in the mid 1960's. Her claim for compensation pursuant to the **Victims' Rights and Services Act** was denied and her appeal of the Director's decisions to the N.S. Utility and Review Board was dismissed. She then launched an appeal to this court.

Held: Appeal allowed and matter returned to a differently constituted Board for a new hearing. The Board erred in law in two respects. First, in the manner in which it considered and disposed of the evidence of K.A., as similar fact evidence; and second, in not adjourning to consider the qualifications of a witness, Dr. Gerd Schneider, whom J.M.D. proposed to call, or otherwise assess the evidence Dr. Schneider was prepared to give.

Awarded the appellant disbursements of \$1,500.00 incidental to this appeal.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 9 pages.