

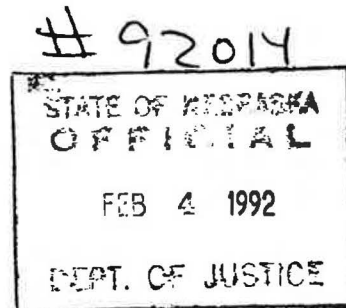


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DATE: January 31, 1992

SUBJECT: Crime Victims Reparations Committee Reconsideration of Claims

REQUESTED BY: Jean A. Lovell, Executive Director
 Nebraska Commission on Law Enforcement & Criminal Justice

PREPARED BY: Don Stenberg, Attorney General
 Linda L. Willard, Assistant Attorney General

You have inquired whether the Crime Victims Reparations Committee may reconsider their decisions. The Crime Victims Reparation Committee is an administrative board created by Neb.Rev.Stat. §§ 81-1801 et seq. (Reissue 1987). As noted in your letter, Neb.Rev.Stat. § 81-1832 states that "all determinations, decisions, and awards made by the committee or any hearing officer may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act." Neither the statutes nor committee rules and regulations address the issue of reconsideration of a decision.

In general, a state agency has only that power which has been given to it by the Legislature. In this case the Legislature has given the Crime Victims Reparations Committee to make the power to make decisions regarding compensation to crime victims but has not given explicit power to reconsider those decisions. However, in Bockbrader v. Department of Institutions, 220 Neb. 17, 26, 367 N.W.2d 721, 727 (1985) the Nebraska Supreme Court stated "administrative bodies which exercise judicial or quasi-judicial powers have the power to decide controversies. 'The power to decide usually implies the power to reconsider.' Andrews Van Lines,

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Inc. v. Smith, 187 Neb. 533, 536, 192 N.W.2d 406, 408 (1971). The power to reconsider exists until the aggrieved party files an appeal or the statutory appeal period has expired." This was reiterated in B.T. Energy Corp. v. Marcus, 222 Neb. 211, 382 N.W.2d 616, 619 (1986) in which the court stated:

We hold that the power of an administrative agency to reconsider its decision exists only until the aggrieved party institutes judicial review or the statutory time for such review has passed, and any such agency reconsideration does not operate to extend the statutory time for judicial review.

Therefore, it is our determination that the Crime Victims Reparation Committee may reconsider any decision which it has made prior to time that the aggrieved party institutes action for judicial review or the time for review under the administrative procedures act as passed.

Sincerely,

DON STENBERG
Attorney General


Linda L. Willard
Assistant Attorney General

28-6-7.16

APPROVED BY:



Don Stenberg, Attorney General